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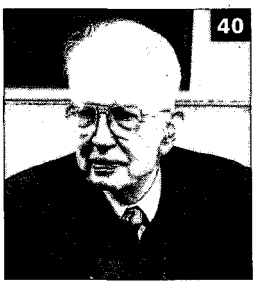

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Beyond Boredom

No, Haley, the "battle of ideas" isn't over.

By Virginia I. Postrel

It was boring, and now it's over.

The 1996 presidential election was boring because it was about so little: It would be won, we all knew, by a man wedded to a fix-it approach to governing—to the notion that for every problem, however minor or complex, a solution is only a bill away. That man would also be commander-in-chief, but would offer little advance clue as to what his commands would be. Neither Bill Clinton nor Bob Dole suggested a grand strategy; ad hoc intervention would remain the rule of post–Cold War foreign policy.

Welfare had been reformed and, despite the president's hints to the contrary, was unlikely to be revisited. Both candidates promised budget-cutting—but not too much, nothing "extreme." Medicare and Social Security were sacred to both the baby boomer president and the senior citizen former senator. The drug war would continue and probably be stepped up, along with efforts to control TV and the Internet (though Dole, to his credit, suggested he would rely more on suasion than regulation). Every new program would come wrapped in a rhetoric of children, families, and American "values." It was, once the ultra-short Republican primary season had concluded, a very dull contest, a clash of images and personalities but little else.

And, in the end, a well-tested rule of presidential politics was once again confirmed: Prosperity prevailed in America, and so did the political status quo. Having been taught for nearly a century that the president runs the economy, voters decided not to change CEOs. In state after state, Dole did well only among people who said they were worse off than four years ago.

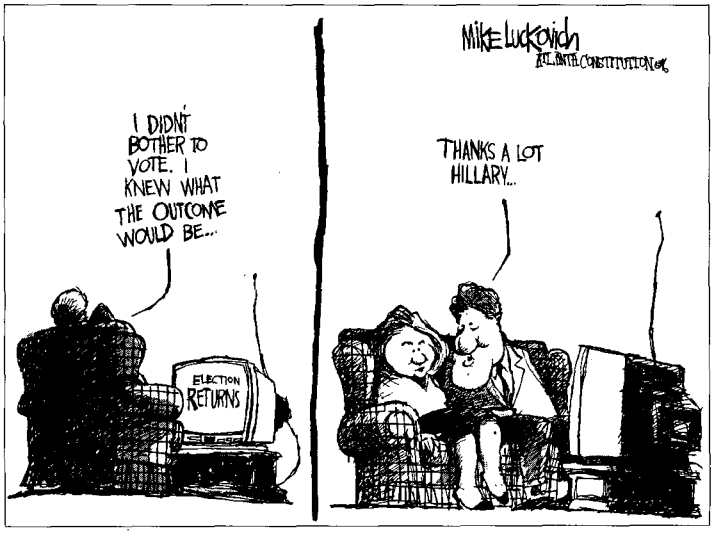
Serious philosophical divisions mattered little. In exit polls, 52 percent of voters said the government should do less, while 42 percent wanted it to do more. A third of Clinton's final plurality came from the would-be government shrinkers. Like the South Carolinians who thought Strom Thurmond's age an impediment yet voted for him anyway, these voters theoretically should have been the challenger's, yet they stuck with the incumbent. (The proportions were even about the same.) The Republicans, meanwhile, held both houses of Congress, a powerful check against the reappearance of ClintonCare or the Gore-inspired BTU tax—and a guarantee of further investigations into the administration's legal and ethical lapses.

As soon as the election ended, the spin began. The Christian Coalition claimed its voters served as a loyal "firewall" to contain the Clinton victory. (Translation: Republicans can safely take them for granted.) The AFL-CIO declared the "resurgence" of organized labor. William Safire fantasized about a Clinton-led "vital center" turning libertarian to counteract the "vital right." Frank Luntz demanded more Republican zeal for micromanaging our social and economic lives: "From television V-chips to school uniforms, from ending 'drive-thru deliveries' in maternity wards to starting kids off healthy with federally administered vaccinations, Clinton emphasized issues clearly relevant to the ordinary lives of ordinary Americans." Leon Panetta declared that the voters had rejected personal attacks and wanted bipartisan government. (Then he quit.)

The most interesting spin came from Republican National Committee Chairman Haley Barbour: "You see, Clinton campaigned as if he were a Republican; at times it sounded as if Ronald Reagan had taken over his body.... *In the United States and around the world, the battle of ideas is over.* The 1996 campaign is living proof; the Left has thrown in the towel." (Emphasis added.)

Barbour's pronouncement is interesting not because it is surprising or original but because it is superficial. It sees no "battle of ideas" beyond a struggle over a few programs—a tax credit here, a drug crackdown there—and vague rhetoric about balancing the budget and shrinking the federal payroll. No philosophy, no world view, no real *ideas.* This is the Republicanism of Bob Dole and the 1996 campaign: a bunch of easily imitated slogans, behind which lies little more than a lust for office.

Bill Clinton is, his vice president reminded us, only the third Democratic president to be re-elected in this century, joining Woodrow Wilson and Franklin Roosevelt. He has no intention of overturning their legacy. He may lay off a few federal employees or tell OSHA inspectors to give businesses signs to post rather than immediately issue fines. But he is hardly likely to weaken the office of the president or limit the scope of federal power. He would never think to question the intrusion of federal regulation into



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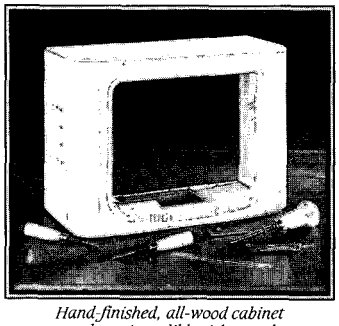

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virtually every aspect of American life. A president who wants to dictate every company's leave policy for employees' PTA meetings is not someone who believes "the era of big government is over." Clinton has not given up the technocratic legacy that treats every problem with a plan.

And it is that legacy—not Barbour's imagined "left"—that is at issue. The left has never been particularly strong in America. Our central government grew not out of the utopian visions of socialists but from the "pragmatic" promises of technocrats. "My orientation is as a problem solver," Clinton adviser Ira Magaziner told a reporter before he went off to cook up the administration's health care scheme. "I don't really think in philosophical terms so much as I do pragmatically."

For nearly a century, our politics has been based on technocratic assumptions and technocratic stories, stories that say laws are levers, easily pulled with easy-to-predict effects. It is hard to tell any other kind of story, terribly difficult to convey a different sort of vision with a political vocabulary established by and for technocrats. That is why both "conservatives" and "liberals," Republicans and Democrats, wind up promising long lists of gimmicks: V-chips and school uniforms, $500-per-child tax cuts and college-tuition tax credits, drug testing for drivers' licenses and an endless stream of problem-solving commissions.

Once the primaries were over, the closest Campaign '96 got to a conflict of visions were a few fleeting moments during the vice presidential debate. Al Gore—a technocrat par excellence, a man consumed with his own intelligence and foresight, willing to plan everything from the shape of cyberspace to the future of Planet Earth—squared off against an underrehearsed and woefully undisciplined Jack Kemp. But every now and then, Kemp got it. "You only get a tax cut in the Clinton administration if you do exactly what Al Gore and Bill Clinton want you to do. That's not America," he said at one point. He tried to draw the links between the freedom to act, achieve, create, and build and a government that plays the role of neutral referee. But more often than not, he babbled and digressed, too accustomed to speaking to friendly audiences able to fill in the blanks, too busy being nice to bother being clear.

"Language," writes Luntz, the Republican pollster, "may not matter to eggheads or ideologues, but it matters to the public. The Republican era cannot arrive until Republicans learn how to tell people who they really are, what they want to accomplish and where they intend to take the country. Until the Republican Party adopts the language of the people, it will capture neither the White House nor enough seats in Congress to make the changes Americans want—the changes America needs."

Luntz is right that language matters. He is wrong to think that "the people" have a ready-made shorthand available to anyone who wishes to articulate a new political vision. Articulation is, in fact, one of the most difficult things human beings do—which is why Luntz offers not new rhetoric but the old technocratic litany of problem and plan. He lamely suggests that Republicans imitate what *Newsweek* calls the Small Deal, Clinton's regulations governing quotidian matters. For those who share Barbour's view of left and right, of a battle of ideas handily won, that is a logical strategy: Democrats give up "the left," while Republicans abandon any pretense of limiting government. The nanny state is as "conservative" as it is "liberal." The Lethal Center rules (see "The Lethal Center," August/September 1995). All that matters is the brand name on the package.

The alternative, and a far greater challenge, is to articulate not just a program but a vision—to make tax cuts something grander than bribes and regulatory reform something more than special-interest pleading, to explain why a free and dynamic society is more likely to produce individual and national greatness than is a static, regulation-bound one. That's hard enough for "eggheads or ideologues," harder still for candidates speaking in sound bites. But if we ever find someone who can do it, politics will be interesting again—because it will matter.

OUR NEW LOOK

This month's REASON marks the debut of a new look—along with a revamped front-of-the-book. Our Citings section incorporates such popular established features as Brickbats and Balance Sheet, along with some new offerings. Enjoy.

Lippo Suction

The "good-government" crowd caused this mess. Who believes they can clean it up?

By Rick Henderson

"The worst [election] in modern times," writes former Common Cause president Fred Wertheimer in *The Washington Post*. "The Real Scandal Is What's Legal," intones a *Newsweek* headline. The political establishment, journalists, and lots of other folks are apoplectic about the role money—including some apparently illegal campaign contributions—played in the recent election. Much like health care in 1993 and immigration in '95, campaign finance reform could be the stealth political issue of 1997—one that barely registers on the radar screen during the campaign yet dominates the policy agenda the following year.

The Clinton campaign and the Democratic National Committee spent the final two weeks before the election trying to divert attention from a series of scandals involving millions of dollars in potentially illegal contributions from foreign businesses and governments, possibly coming from Indonesia, South Korea, and China. Current laws prohibit campaign contributions from foreign governments, citizens, or businesses. (It is legal, however, to accept money from the American subsidiaries of multinational companies or from individuals who have their green cards and could eventually become citizens.) Nor was the Dole campaign blameless: A prominent Massachusetts business owner and fund raiser paid a $6 million fine because he improperly reimbursed employees who wrote checks to Dole. "The most powerful people in the country," writes Wertheimer, "have proved in the 1996 political season that they do not believe the law applies to them."

The appropriate first response, as Wertheimer acknowledges, is to enforce the laws on the books. Taking campaign money from foreigners or laundering it as the Dole supporter did are criminal offenses that can lead to big fines or jail sentences. But the reformers aren't content to apply old laws. They want to add new restrictions on fund raising.

Echoing Common Cause and the Naderite groups, Bill Clinton, Bob Dole, and Ross Perot all agree that money from political action committees should be banned or strictly limited. All would also restrict or eliminate "soft money," the unlimited supply of dollars that individuals, businesses, and interest groups can give to political parties. And they would prohibit campaign contributions from non-citizens, even those who will eventually become Americans and who must already live under U.S. laws. In addition, Perot, along with Senator-elect Sam Brownback (R-Kan.) and Sen. John McCain (R-Ariz.), would prevent House candidates from raising money from outside their districts and Senate candidates from getting money outside their states. McCain would require television stations to set aside free time for candidates; Perot would force candidates to give back any unspent campaign funds after each election.

It's hard to believe that candidates and campaign operatives who so shamelessly break existing laws will miraculously become solid citizens after the laws become even tougher to obey. And that pesky First Amendment would invite immediate, probably successful, legal challenges to restrictions on soft money—and to laws limiting contributions to lawmakers who don't happen to hale from your hometown.

The good-government types are right when they say the problem is power. But the power they worry about is the wrong kind. The clout wielded by well-connected individuals, businesses, and advocacy groups is less troublesome than the coercive might of government. When the actions of legislators, agencies, and bureaucrats can bankrupt you, enrich you, or send you to prison, campaign contributions seem like a logical form of protection money. And most of the changes under consideration would further concentrate power in the hands of the reformers—the people who caused this mess. As an election day *Wall Street Journal* editorial pointed out, the current campaign scandals are a direct consequence of post-Watergate laws that were championed, if not drafted, by Wertheimer, Nader, and their good-government allies.

Instead of allowing the airwaves to be cluttered with hundreds of inane and occasionally offensive campaign ads paid for voluntarily (unless if they're from unions, but more on that later), the goo-goos now want to coerce outlets to set aside contiguous chunks of air time for candidates to spout inane and occasionally offensive platitudes. And it's a scary prospect to contemplate giving the likes of Nader, Wertheimer, Perot, or any other national nanny enforcement powers to police political activity and hector those who disagree with them.

MIKE LUCKOVICH

A growing number of election watchers, including former Republican presidential candidates Pete du Pont and Alan Keyes and conservative columnists Tony Snow and Mona Charen, suggest a different type of reform: Repeal limits on private campaign spending or

contributions but require full disclosure of funding sources. Snow, for instance, would "make politicians document on a daily basis the source and value of every contribution, whether it be money or elbow grease."

Requiring disclosure does compromise the privacy of donors, but when people are trying to influence policy, it's not a bad idea to know who wants to buy what. More troubling, however, is the demand to document every jot and tittle. Keeping records costs time and money. And federal and state election officials have a legendary disregard for the First, Fourth, and Fifth Amendment rights of political advocacy organizations. Large PACs and trade associations hire expensive legal advisers to help them navigate arcane campaign laws; smaller groups with fewer dollars often get socked with major fines merely because they didn't fill out forms correctly or file them properly. Requiring full disclosure would only enhance the tendency of election agencies to occasionally act like, well, jack-booted thugs. (See "Gagging on Political Reform," October 1996; "Disclosure Flaw," March 1996; "The Price of Political Speech," page 15.)

A more sensible approach would set reasonable reporting thresholds. Individuals or groups who contribute, say, $1,000 or less to a cause need not disclose anything. And set a sensible level for the amount of donated labor and equipment that can go unreported. Above those levels, make political contributors open their books. The law should neither stifle genuine grassroots activism nor encourage fat cats to conceal their motives.

Bob Dole did suggest one reform that would directly reduce the coercive power of the state: Pass a law implementing the *Beck* decision. In 1988, the Supreme Court ruled that the dues of union members can be used for only one purpose: the maintenance of each member's contract. Dues can't fund political activities, or help organize another work site, or buy cars and houses for union bosses. Unions can, of course, voluntarily raise money for all these and more. But members have the right to get back the portion of their dues that support outside activities.

Neither the Labor Department nor the National Labor Relations Board has enforced *Beck*. And in this election alone the AFL-CIO spent more than $70 million on ads for Democratic candidates. Grover Norquist of Americans for Tax Reform points out that, if only 10 percent of union dues funded political action (campaign workers, phone banks, computer equipment, and so on), unions illegally spent $1 billion in the 1996 election cycle to try to defeat Republicans. Since the GOP retained control of Congress, and exit polls indicated that about one-third of households with union members voted for Dole, reining in labor bosses could reach the top of next year's agenda.

Enforcing *Beck* would send the right signal about campaign reforms. Let information and influence flow through as many outlets as possible. Intelligent changes in campaign laws might not keep the Wertheimers of the world from nagging us, but they would make it easier to tune them out.

Out of Sight, Out of Hand?

The FBI flunks the character issue.

By Nick Gillespie

By most accounts, the "character issue"—whether a candidate is honest, trustworthy, and morally principled—failed to engage voters during Campaign '96. As *Time*'s Margaret Carlson half-jokingly put it, "Character has lost its attraction as an issue now that it no longer means sex. Once the press and the candidates realized that harping on sexual indiscretions ran the risk of Mutual Assured Destruction, the character issue was reduced to the impossible—and tedious—task of weighing one man's soul against another's."

But during the waning days of a rather torpid election season, another governmental character issue floated to the surface, one that may well grab the public imagination with full force. In late October, FBI Headquarters Manager E. Michael Kahoe—suspended with pay since last year—pleaded guilty to obstruction of justice. His crime: shredding an internal FBI critique of the agency's disastrous 1992 siege against white separatist Randy Weaver at Ruby Ridge, Idaho.

When the smoke lifted from that melee, Weaver's wife and 14-year-old son, along with a federal marshal, were dead. A jury later found Weaver guilty of failing to appear for trial but, citing governmental misconduct, acquitted him and accomplice Kevin Harris on murder charges. Last year, the government agreed to pay Weaver and his family over $3 million to settle a wrongful-death suit.

Kahoe, charged court papers, did not merely destroy all copies of a report which he himself prepared; he also ordered a subordinate "to make it appear as if the Ruby Ridge after-action critique never existed." Kahoe is expected to implicate other agency colleagues in an ongoing Justice Department probe into a variety of unresolved issues regarding Ruby Ridge.

Chief among these is who was responsible for issuing rules of engagement authorizing agents to shoot on sight—a practice that, according to an earlier Justice Department inquiry, "departed from the FBI's standard deadly force policy... [and] contravened the Constitution of the United States."

In statements given before the Senate Subcommittee on Terrorism, Technology, and Government Information, two commanders who were at Ruby Ridge fingered former FBI deputy director Larry Potts, at the time of the siege head of the FBI's criminal division. Potts, who like Kahoe is on paid suspension, told Congress that he never issued or signed off on such orders. Besides Potts, the Justice Department is focusing on Danny Coulson, former deputy assistant director for the criminal division, and Gale Richard Evans, the former director of the violent crimes unit under Kahoe. According to *Newsweek*, Justice's investigation will soon be supplemented by a new round of Senate hearings, once again chaired by Sen. Arlen Specter (R-Pa.). That the FBI—an agency with a disturbingly weak history of respecting civil liberties—is either incapable or unwilling to police itself bespeaks a character issue of the most serious sort.

The character issues surrounding the Ruby Ridge disclosures are, to be sure, of a different sort than those aired during a political campaign. In a campaign, people typically have all the facts they need to make an informed decision—candidates have a track record of promises made and promises kept, scandals weathered and "lessons learned." When Bob Dole, for instance, accused Bill Clinton of breaking his word on a middle-class tax cut, or of filching his best policy ideas from Dole's own GOP, voters could easily decide not only whether the charge was accurate, but whether it was relevant.

Most of electoral politics takes place at a visible, measurable level, and citizens have various avenues of recourse, including recall, impeachment, and, perhaps most important, the simple withholding of support in a future election. In this sense, politicians are like merchants: They must satisfy their customers by giving them what they want, lest they go out of business. They can cheat and swindle voters from time to time but, by and large, politicians do not rule contrary to their constituencies' desires any more than merchants are able to force unwanted goods on their customers.

In contrast, the character issues surrounding Ruby Ridge and the FBI—Which feds are lying? Which are telling the truth?—are much more chilling because the basic facts are so much more difficult to dope out. An authoritative reconstruction is all but impossible, especially since a key player has already admitting to burying evidence. In law enforcement, events almost always happen outside of public purview. If police are to have any legitimacy, we need to be able to know that agents who work out of our sight can be trusted to do the right thing—especially when they can get away with doing the wrong thing. The recent—and one assumes, with history as an infallible witness, forthcoming—revelations of higher-level FBI misconduct should send a chill down the spine of every American. We know only this much already: Federal agents have betrayed the most basic public trust that they, too, will obey the law even as they enforce it.

In a representative government, who watches the watchers is neither a rhetorical question nor an easy riddle to solve. Although outside groups can exercise some oversight, the unsettling truth is that, to a considerable degree, the watchers must be able to watch themselves. The failure to do so—and the FBI is hardly alone in this dereliction of duty—points to the real significance of the character issue: the loss of public confidence in governmental institutions. Until the FBI can demonstrate that its own house is in unambiguous order, it will rightly have little legitimacy and inspire little trust as it surveils the lives of private citizens.

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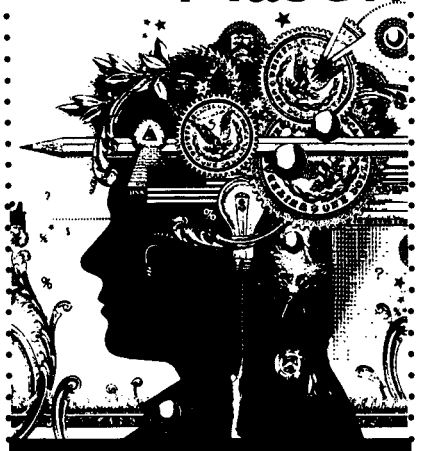

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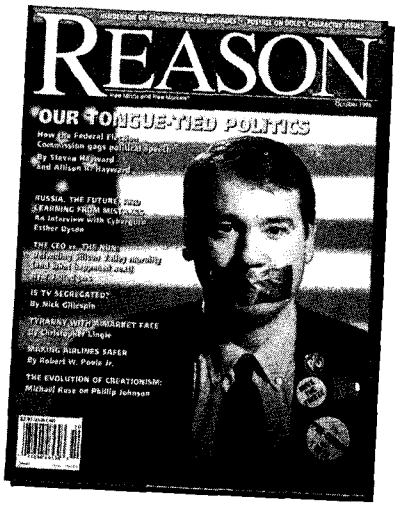

Pro- and Anti-Choice

Your editorial "The Choice" (October) did a useful service in succinctly reminding us of the long-standing deficiencies of the Republican candidate for president. The choice this November is between two atrocious candidates. I, for one, shall not make it.

R.J. Richardson
Tolovana Park, OR

Hurrah, hurrah! Your editorial about Robert Dole was absolutely superb. All of the things I have been thinking and muttering about, you captured in lucid prose. And thanks for putting the tag on Perot.

William Garner Jr.
Austin, TX

"The Choice" is absolutely first-rate. It started by capturing what I was thinking but unable to articulate, and then considerably improved on it.

An interesting light on Dole is that reporters talk about what a fine person he is, but some Senate staffers are pretty tepid, regarding him as uninterested in substance of any kind. One of them said to me, "When he looks in the mirror, there's no reflection."

James V. DeLong
Regulatory Policy Center
Washington, DC

Virginia Postrel criticizes Bob Dole's character and integrity, and much of the criticism is well-founded. She then advocates "sending a message," apparently by voting for Ross Perot or some other quixotic candidate. Postrel's entire thesis seems to rest on her stated assumption that the Republicans will retain both houses of Congress even if Dole "lose[s] badly"; given this, she concludes that "the country can endure a second Clinton term with minimal damage."

Unfortunately, it is unlikely that the GOP will retain Congress if Dole "lose[s] badly." Even if they do, however, it is simply not true that another Clinton term will inflict only "minimal damage." First, four more years of President Bill Clinton means four more years of Robert Reich, Laura Tyson, Warren Christopher, Donna Shalala, Hillary Clinton, etc., exercising vast political power, most of it via unelected, virtually untouchable bureaucracies. This is not to mention judicial appointments, the vast majority of which would sail through even a Republican Congress, and nearly all of whom will be committed leftists who will, among other things, help the bureaucrats dig in their heels against any rollback of governmental excess.

Second, and even more frightening, if he wins this year Boy Clinton will, for the first time in his adult life, be unencumbered by the need for re-election. Thus, all of his recent Republican-sounding rhetoric will disappear as fast as the "middle class tax cut" he promised in 1992. The Reich/Shalala wing of the administration will be free to begin acting out its statist fantasies with little or no regard for the daily poll results.

No matter that Bob Dole is imperfect; at least he's not Bill Clinton, and his cabinet won't be filled with neo-socialists. That is all the reason I need to vote for him.

Frank C. Magill
Maryville, IL

I was amazed at your editorial trashing Bob Dole, and at the same time passing off Bill Clinton's lying and broken promises as "dissembling," a much softer term. You imply that Bob Dole also breaks promises. I don't think you can be a minority leader in the Senate for years and then a majority leader and break promises or tell lies to your peers.

You also assume the Republicans will hold on to Congress with a Clinton re-election. With the tremendous sums the unions have been spending to defeat Republicans, this is far from certain, and is more likely to be wrong.

I get the feeling that your journalistic background (about 85 percent of journalists are Democrats) plus your feminine emotional nature are influencing your editorial. In men, it's natural to be attracted to a pretty face and figure, and in women it's natural to be attracted to a highly successful man who has made money or become the U.S. president. How a man succeeded is dwarfed by the security he represents.

So you find it best to re-elect Clinton, the man who the good Democrat Sen. Pat Moynihan says authored "the largest tax increase in the history of public finance in the United States or anywhere else in the world." Despite your implication, Bob Dole will not fight a Republican Congress, as did Bill Clinton. So I'm looking forward to your editorial trashing Bill Clinton three or four times as much as you trashed Bob Dole.

John F. Haviland
Portland, OR

Virginia Postrel's editorial "The Choice" would have been better titled "No Choice!" or at least "The Choice?" It seems that to Ms. Postrel, Mr. Dole is just no damn good. He's too old, can't "imagine the future," and is out of touch with the present. He played dirty by dumping on the flat tax in the primaries, and he's been for big government and tax increases in the past. Furthermore, Jack Kemp's no help because "He won't let

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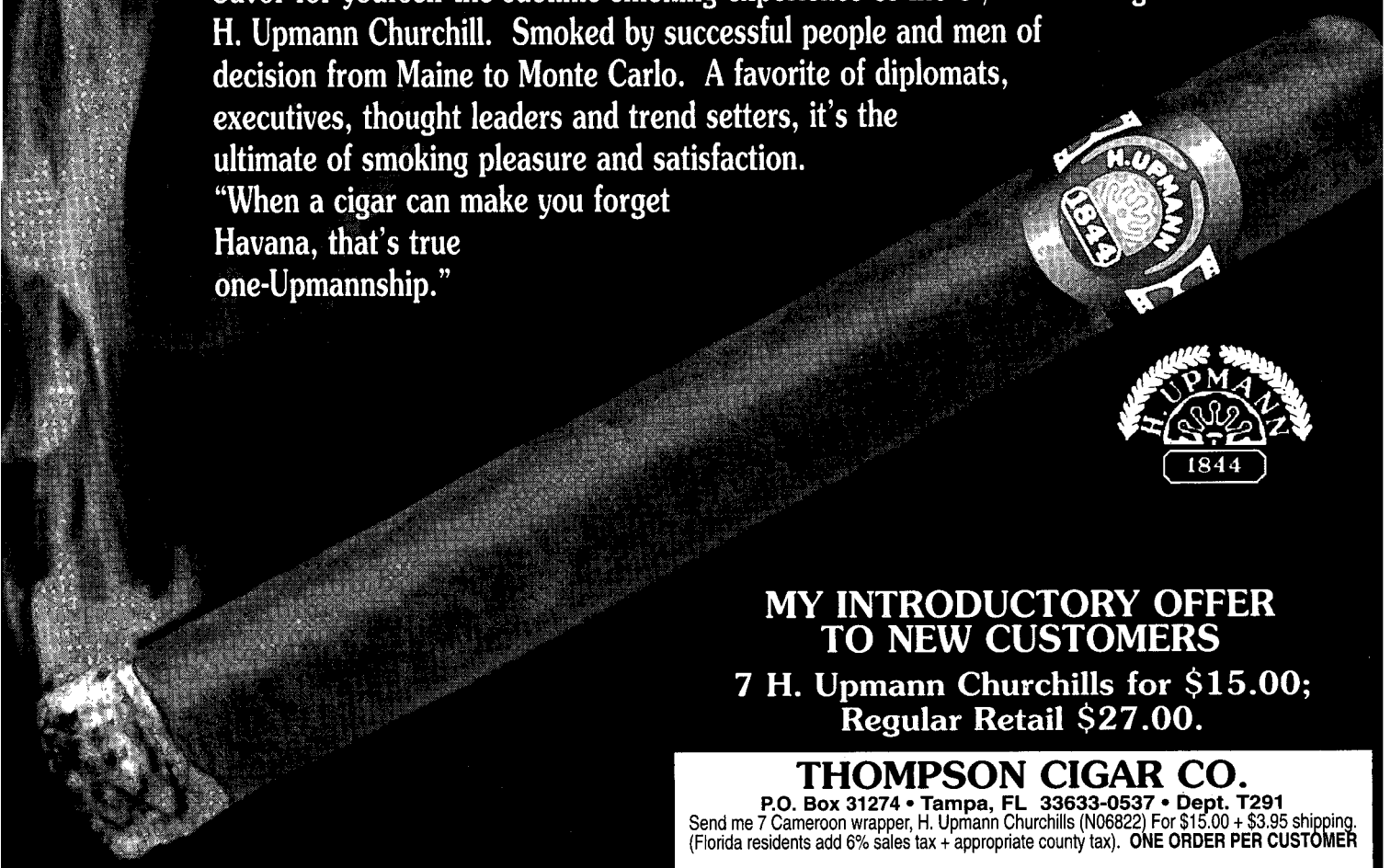

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go." (Apparently, he won't let go of "good impulses.") She then advocates "sending a message" by punishing the Republicans, which means helping to re-elect Clinton.

I'm surprised that the editor of a libertarian publication would not be very much afraid of another term for a president whose preeminent trait is abuse of the enormous power of the presidency and the federal government. He sics the Secret Service on people who publicly disagree with him. Recall the case of William Kelly, who dared to ask the president why he had reneged on his promise of a middle-class tax cut. The Secret Service handcuffed him, put him in leg irons, and hauled him off to jail. How about Patricia Mendoza, who somewhat indecorously told the president that he "sucks"? This meant jail, interrogation by the Secret Service, and threats by the IRS.

Or what about in Berkeley, California, where Clinton's Department of Housing and Urban Development sued citizens who dared to speak out against having a homeless shelter in their neighborhood? Then there's the travel office affair, where both the FBI and the IRS were called in to find dirt on the dismissed employees. Consider the politicization of the FBI, which now uses its investigative powers to provide the White House with advance knowledge of information which might be politically damaging. What about the abuse of the power of the Resolution Trust Corporation and the Treasury Department along the same lines, or the summary dismissal of all sitting U.S. attorneys shortly after the administration took office?

This same president now asks us to entrust his FBI with greater wiretapping authority, seeks to impose curfews, wants to require school uniforms, and has instructed the Food and Drug Administration to regulate tobacco as a drug.

All of this has been done in spite of the restraint imposed by the need to get reelected, and some of it in spite of the presence of a Republican Congress. What new incursions on our freedom will he attempt when he no longer has a need to please everyone, especially if he again has a House and/or a Senate controlled by his own party?

William W. Owens Jr.
Boston, MA

I read with interest Virginia Postrel's recent editorial on Republicans, Democrats, and third parties. I must say I was quite taken aback that REASON, in a discussion of third parties, managed to discuss George Wallace, Ralph Nader, and Ross Perot, but could not find room for the current Libertarian Party candidate, Harry Browne.

You don't have to support him if you don't want to, but if REASON won't mention Harry Browne's campaign in an article on third parties, what chance does his candidacy have?

Adrian Day
Annapolis, MD

Virginia Postrel replies: My thanks to R.J. Richardson, William Garner, and James DeLong for their comments, which represent the overwhelmingly positive response to "The Choice." It's very unusual for people to take the trouble to say something nice about an article, but many, many REASON readers apparently found their own frustrations crystallized in that editorial. Don't let anyone tell you that Bob Dole's ignominious defeat represents a repudiation of limited-government ideals.

John Haviland's and William Owens's letters represent a common Republican position: that Bill Clinton is so bad we are obligated to get behind whomever the GOP chooses to run against him. Clinton is bad all right—and more astute readers discerned my utter contempt for him—but his numerous vices did not justify an unthinking vote for his Republican opponent. For those whose boxlike approach to politics deems a criticism of Bob Dole to be an endorsement of Clinton, I suggest a look at my May 1994 editorial on Whitewater (available on REASON's Web site at www.reasonmag.com), not to mention the numerous other criticisms of the administration I've written or run over the past four years. To take a single example, back when Bob Dole was salivating at the prospect of making a deal with the White House, REASON and I were among the first voices to oppose ClintonCare. I may also have been the first person to state on national television, way back in the travel office/runway haircut days, that the Clintons suffer from "Kennedy-Nixon disease," better known as the abuse of power. (I will leave it to Republican strategists to mull the implications of Mr. Haviland's meditations on my presumed taste in men, and of the easy acceptance of such notions in some GOP circles. I would, however, suggest that they *not* continue to take such ideas as indicative of how their candidates should pander to women.)

Voting is as much a matter of communication as it is a matter of governing (in fact, a single individual's vote in a presidential election counts not a whit). A vote for Dole communicated an endorsement both of a long career of approaching every social problem with a big-government solution and of shady primary campaign tactics. It was a vote for the Nixonian approach to Republican policies, the approach that gave us every major regulatory initiative of the past 30 years and that "saved" Social Security by raising payroll taxes through the roof. Contrary to Mr. Owens's letter, I did not criticize Dole for merely "dumping on the flat tax" but for overtly lying in New Hampshire TV commercials and covertly doing phony "push polling" in Iowa. Although Dole could barely bring himself to criticize Bill Clinton, he had no trouble getting down and dirty to win the nomination he felt was his by rights. In addition, both Dole and the Republican Party are strong advocates of expanded law enforcement powers—the very powers that are so subject to abuse.

Adrian Day's letter is bizarre, since it suggests that Harry Browne—like Perot, Wallace, or Nader—was running a personality-driven campaign. Unlike those typical "third party" candidates, the party behind Browne really *is* a well-established political organization, not just a shell for one man's ambitions. Hence, it is the party, not the candidate, that matters in the context of a more general discussion of third-party voting. Mr. Day also vastly

CORRECTION

In Frederick Turner's submission to "Art & Artifacts," the December book symposium on technology, the "most potent of all" technologies was misstated. It should have been *nootechnology*—the technology of the mind, from the Greek word *noos*, which means thought or mind.

underestimates the intelligence of the average REASON reader, who without a doubt can figure out which candidate goes with which party by looking at the ballot. For the record, I voted for Browne, for the "send them a message" reasons discussed in the editorial.

Evolving Arguments

Michael Ruse is livid at Phillip Johnson in his review of Johnson's book *Reason in the Balance* ("Naturalistic Fallacy," October). And why not? So was the emperor at the little kid who shouted that the emperor had no clothes. Is this why Ruse refuses to "waste time trying to refute" Johnson, or tells us that only "biblical literalists or fundamentalists" have not "made peace with evolution"? Francis Crick is a "fundamentalist"?!?

Johnson is not concerned with attacking "evolution," as is clear to anyone who reads with an open mind. He wants to unmask the complete naturalistic program that dominates current teaching about the origin of life and its diversity.

Phillip Johnson is focusing attention on the actual problem—tax money from citizens of diverse opinions about origins is being spent to propagandize public school children, telling them their parents are wrong and current scientific authority is correct. All this about non-reproducible events in the remote past that are ultimately unknowable in any strictly empirical sense.

Earl Aagaard
eaagaard@puc.edu

My subscription began with the October issue. It was good, and provided a surprisingly funny introduction to the state of reason in evolutionary theory.

All the reader sees in the review of Phillip Johnson's book on evolution is the high state of the reviewer's dudgeon, brought about by reading some thoughts with which he disagrees. I am curious about why the reviewer supposes REASON is an appropriate publication for expressing emotions about someone else's writings. There is a saying among engineers which goes, paraphrased in less crude form, that when there is a contest between science and emotion, emotion wins every time. Ruse whines that Johnson makes him cross, then even more cross, then truly livid. So what? Who cares? The evolutionist I suppose, for emotion—not reason—rules the evolutionist.

The Ruse book review is as good as it gets when an evolutionist defending his faith tries to use reason. In this instance that is not very good. Let me point out a few examples.

Ruse trots out the "survival of the fittest" tautology with no evident shame or embarrassment. Those that survive are the fittest, and they are fittest because they survived. It is a remarkably universal tautology. So here we all are, us members of various species; and having survived so far, we are fittest. So all of the species now extant are, according to Darwin, fittest. How does this square with empirical observation? If all species are equally fit (fittest admits to no lesser state of fitness and hence all currently living species are equally fit), then why do we have an Endangered Species Act? Why is it necessary that one species (us) must intervene to protect equally fit other species?

Does the reviewer really "cherish science as a wonderful achievement of the human spirit"? Several of us think that science was, is, and will continue to be an activity of the mind rather than a spiritual quest. Science is largely a search for precedent. If this, we observe that. By applying mathematics and logic we deduce rules that are useful in understanding the physical world. Some of the precedents are quite compelling, and we call them physical laws, as in Newton's laws of motion. We can apply the rules to do useful things—make airplanes, build harvesters, make medicines, and so on.

Let's engage in a little speculation on the precedent that evolution provides. Plants and animals as individuals live and then die. Some species survive this cyclic process for quite a while. They are the species fittest to survive. We now have a precedent and know and can predict—that plants and animals live and then die. Some survive for a while. Those which survive are fittest. Someone else can try to raise capital on this knowledge.

Tautologies are absolutely true, as in, "Either it is red or it is not red." Unfortunately, these absolute truths are trivial. The theory of evolution is absolutely true, but only because it is trivial. Would that your reviewer were stronger in science and less apt in style and rhetoric.

Glenn Niblock
San Diego, CA

Michael Ruse replies: Reading your own material strikes me as a bit like self-abuse: great fun but dangerous on the eyesight. With age and the need for reading glasses, I have turned to other solitary pleasures. But reading the letters sparked by my review of Phillip Johnson's book *Reason in the Balance*, I went scurrying back to see what I had written.

As I remembered, and what you would never realize from my critics, in respects I was quite sympathetic to Johnson's position. I agree that evolutionists do use their theory to promote social positions, and like Johnson I am uncomfortable with that. As I also remembered, this time around, neither Johnson nor I were putting our efforts into the evolution debate —we have both done so elsewhere—but rather into the question of naturalism and its implications for society. So when correspondents go after me, regretting that I am not "stronger in science and less apt in style and rhetoric," I can only regret that they do not bother to see what is at issue this time. On the evolution question, read my contributions to my collection *But is it Science? The Philosophical Question in the Creation/Evolution Controversy* (Prometheus Books). Then correspond with me. You have my e-mail address.

And finally, as I remembered, what made me cross was the slipshod way in which Johnson treats philosophers (not me!) in his book. No one among my critics has spoken to this, or denied that Johnson is all very well on criticizing others but interestingly reticent on his own position. So, the next time people want to lecture me on natural selection as a tautology, could they first let me know if they think there has been a universal flood in their neck of the woods, and if so, what evidence they would put forward for this belief? In baseball, both sides must come to bat and face the opposing pitcher. So let us have the same for arguments about science and religion.

Doctors' Disorders

By Nick Gillespie

A recent government investigation into the nation's health program for the poor has found that medical providers guilty of "fraud or patient abuse or neglect" continue to participate in Medicaid and other federally funded health programs. Although Medicaid—which spent over $159 billion in state and federal money during fiscal 1995—is administered by individual states, the U.S. Department of Health and Human Services is responsible for determining which doctors, hospitals,

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pharmacies, and other medical institutions are excluded from the program.

Last fall, the General Accounting Office looked at exclusion processes in Illinois, Maryland, Missouri, Virginia, and the District of Columbia. The GAO found that HHS had failed to act promptly, even in cases where providers had been convicted of or admitted to fraud or other malfeasance. Investigators also found "inconsistencies" among HHS field offices regarding which providers would be considered for exclusion.

In one case, the GAO's Leslie G. Aronovitz testified before Congress last fall, it took the Chicago HHS office more than a year to forward exclusion paperwork on a pharmacy that had overbilled Illinois's Medicaid by over $117,000. In another case, a field office recommended a provider be excluded 19 months after learning that the provider had pled guilty to false billing in state court.

Worse still, said Aronovitz, due to a lack of case file documentation at the HHS field offices, investigators could not even determine the "magnitude and pervasiveness of the problems in the exclusion process."

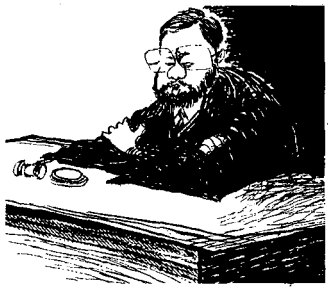
O. J. Simpson Trial Good for Privacy?

By Brian Doherty

Despite its ill effects on race relations, media behavior, and respect for the jury system, the O. J. Simpson criminal trial had some positive effects on privacy in America, believe it or not.

In 1993–94, the wiretappiest state judge in California was none other than Simpson case star Lance Ito. Ito approved eight different taps that intercepted over 24,000 calls at a cost of over $1.3 million. These taps resulted in only 16 arrests and only *three* convictions. The cases all involved narcotics.

During the 1994–95 reporting period—according to *Wiretap Report*, published by the Administrative Office of the United States Courts—Judge Ito, busy with the Simpson case, approved not a single tap.



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Balance Sheet

By Rick Henderson

ASSETS

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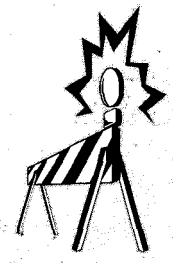
▲ Swap Meet. The 18-member Asia-Pacific Economic Cooperation trading bloc endorses an American proposal to eliminate tariffs on computer hardware and software and telecommunications products by 2000. The tariff cuts would lower prices on hundreds of billions of dollars in goods and services—fully half the items traded between the United States and Asia.

△

▲ Rightsizing Sam. Despite record tax and regulatory burdens, in one area the federal government's role in the economy approaches a 50-year low: direct purchases of goods and services. At the height of the Cold War, spending on weapons systems, government salaries, and such infrastructure projects as the Interstate Highway System absorbed as much as 15 percent of GDP. That number is now 7 percent and falling. As central planners end up with less money, entrepreneurs get more.



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▲ Left Out. Former Nicaraguan socialist strong man Daniel Ortega has his head handed to him—by voters. Businessman Arnoldo Aleman becomes president after defeating Ortega by a double-digit margin. One major initiative for the new ruling Liberal Party coalition: restore properties seized by the Sandinistas to their original owners or give them compensation.

△

▲ Party On. The tax revolt soldiers on. Voters in Florida turn down a penny-per-pound sugar tax to fund cleanup of the Everglades. Floridians also pass an initiative requiring any tax hike to get a two-thirds majority referendum vote. Successful initiatives in Nevada and South Dakota require supermajority votes in the state legislature to raise taxes. And in California, voters must now approve any proposed hikes by "special tax districts"—those supposedly independent entities that levy utility taxes and development fees.

△

Common Culture

By Cosmo Wenman

The nativists may be restless, but they have little reason to fear immigrants from south of the border—especially if they are afraid immigrants don't want their children to assimilate. "The Importance of Learning English," a survey commissioned by the Center for Equal Opportunity, found that of 600 Hispanic parents from five major U.S. cities, 51 percent consider "learning to read, write, and speak English" the most important educational goal for their children. Twenty-three percent gave "learning academic subjects like math, history, and science" highest priority, while only 11 percent said having their children learn Spanish was their first concern.

Just 4.3 percent placed "learning about Hispanic culture" at the top of the list. Parents interviewed in Spanish were actually more likely to say learning English was most important for their children than those questioned in English.

The CEO's report also helps shed some light on who *doesn't* support bilingual education: The survey found that 63 percent of Hispanic

▼ **Dole Man.** A year ago, Steve Forbes, Dick Lugar, and even Pat Buchanan had completely discredited the incomprehensible Internal Revenue Code and heaped ridicule on the use of taxes as a mechanism for social engineering. But Bob Dole's sleazy '96 campaign against the flat tax bears bitter fruit. Any "tax reform" in 1997 will consist of opening loopholes (child, tuition, and hiring credits, just to name three) rather than closing them. Thanks, Bob.

▼ **Land Grab.** How green will Newt's next Congress be? (See "Natural Lite," Oct.) The Clinton administration, which wants asset forfeiture laws to cover suspected polluters, will offer a test. Clinton's proposed Environmental Crimes and Enforcement Act would let the Justice Department freeze a corporation's assets before it went to trial on an environmental charge. In *The Wall Street Journal*, James Bovard quotes EPA head Carol Browner: "If you're polluting the public's air and water, then the benefits you derive, the assets you have, can be taken."

▼ **Canadian Club.** Mainstream medical associations enter the war against managed care. (See "Medical Meddling," Dec.) The District of Columbia Medical Society, citing "significantly decreased physician reimbursement" under managed care, becomes the first state-level medical association to endorse a single-payer, tax-funded health care system. Writing in the AMA publication *American Medical News*, former Texas Medical Association President Robert M. Tenery Jr. says single-payer is "looking more attractive every day."

▼ **Royal Flush.** Hate going to the DMV? Just be thankful if you're older than 18: Bill Clinton wants to force minors applying for drivers' licenses to first pass a drug test. Let's see, now. Wait in one line to pick up a cup, another to, ahem, fill it (under the watchful eye of a helpful DMV clerk), a third to turn it in, and a fourth to get your (confidential!) test results. Then take your road test. Don't get smug, Republicans. Putative 10th Amendment lover Bob Dole says this sounds like a good idea.

LIABILITIES

parents believe Hispanic children should be taught English *before* they are taught Spanish.

Upside Downsizing

By Nick Gillespie

Big government is dead. Long live big government.

A recent General Accounting Office report on downsizing efforts at the United States Postal Service suggests just how efficient the government will be at downsizing. Although the Postal Service is technically an independent government agency, it still receives various subsidies from the feds and is very much bound by governmental regulations and procedures.

Between April 1993 and November 1995, reports the GAO, *after* the Postal Service had completed its downsizing effort, overall postal employment had grown by about 10 percent, from 782,000 to 855,000. And 98.6 percent of the new hires were "career employees," meaning they will be around for the long haul. In fiscal 1995, despite a massive $5 billion automation investment plan, labor costs were about 80 percent of the Postal Service's costs—the same percentage as in 1969, a year before the service became an "independent" executive branch agency.

"The vast majority of the Service's craft employees, those who collect, sort, and deliver mail, are protected from layoffs," notes the GAO.

The Price of Political Speech

By Brian Doherty

A fair political practice is a highly regulated political practice, at least in the practice of California's Fair Political Practices Commission. (See "Disclosure Flaw," March 1996.)

In its zeal to ensure that political speech can't be conducted without timely and thorough paperwork filings with the state, the FPPC recently fined two Port Hueneme women $2,250 for trying to make sure their small Ventura County town could still afford its own police department.

Valorie Morrison, a hamburger fryer, and Jillynn Taylor, a housewife, formed an organization called Save Our Port Hueneme Police Department in support of a June 1994 ballot measure to impose a new tax to raise money for the police department. (The measure failed.) Morrison and Taylor's group raised a little over $30,000 and spent over $15,000 on the usual paraphernalia of small-town politics—bumper stickers, T-shirts, direct mailings, newspaper ads, yard signs. (They passed on the remainder of their booty to a successor organization.) Citizen volunteers gathering to ▶

SOURCES

The Transactional Records Access Clearinghouse, associated with Syracuse University, displays everything you wanted to know and more about the **Bureau of Alcohol, Tobacco, and Firearms**. The Web site (http://trac.syr.edu/tracatf) supplies graphs and charts on BATF enforcement trends, prosecutions and convictions, laws enforced, and other information, broken down by time period and area. Staffing information and institutional history for BATF are also included.

"Many cities in the West and South are confronted with rapid growth and urbanization. Portland, Oregon, is responding to growth with an increasingly popular planning concept called *New Urbanism*. ...Portland's planners have good intentions, but they are trying to impose a utopian vision on people who would rather find their own answers."—Analysis and alternatives are provided in the Spring 1996 issue of *Different Drummer* magazine, one of the best primers on dynamic approaches to urban issues. Available from The Thoreau Institute, 14417 S.E. Laurie, Oak Grove, OR 97267, (503) 652-7049, or on the institute's Web site (www.teleport.com/~rot).

"A closer look at the implications of the [information technology] revolution for productivity, jobs, trade, inflation and the organisation of firms and markets suggests that much of this fashionable thinking is simply wrong. IT may well be heralding another industrial revolution, but understanding and coping with this revolution does not require a revolution in economics."—"The Hitchhiker's Guide to Cybernomics," a special *Economist* survey, provides an intelligent guide to issues usually presented in clichés, reviewing academic literature and gobs of interesting statistics. Available for $3.75, plus 10 percent postage, from The Economist Newspaper Group, Reprints Department, 111 W. 57th Street, New York, NY 10019, (212) 541-5730.

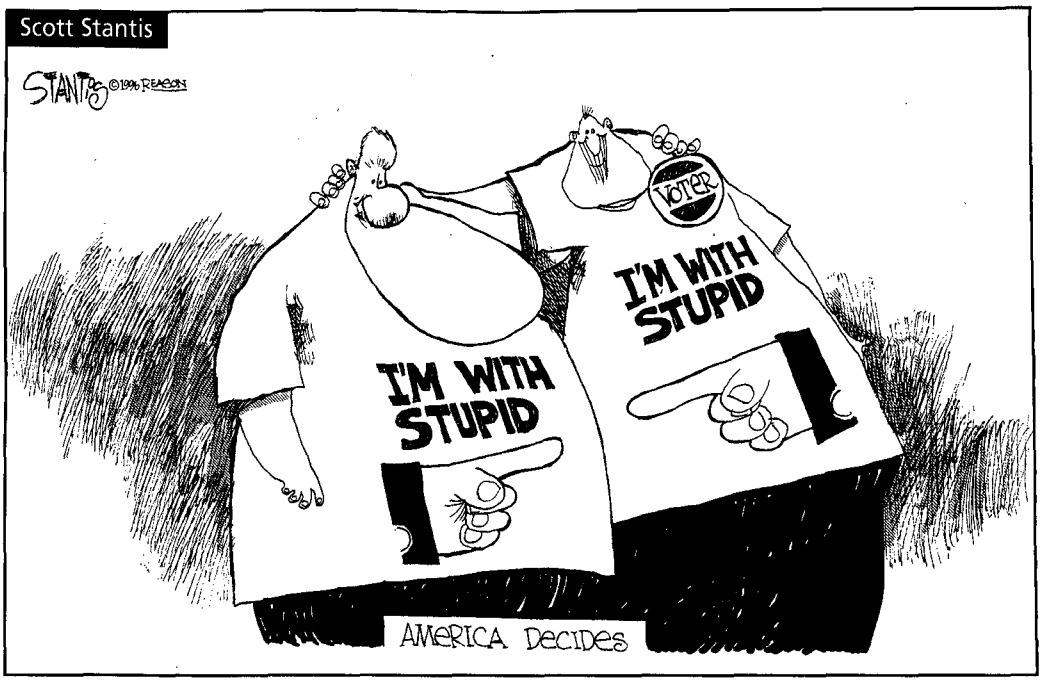
BRICKBATS

◆ What would you do if someone called you a slave? What would you do if that same person said that the industry you work for feeds people "filth, ignorance, and stupidity"? Well, if you are a black journalist and the speaker is Louis Farrakhan, you give him a standing ovation. That's exactly what happened when Farrakhan made these remarks in a speech before the National Association of Black Journalists.

◆ Reeling under the onslaught of foreign competition, Taiwan has enacted strict new import quotas—on foreign wives. It seems that marriages between Taiwanese men and foreign women are now outpacing marriages between Taiwanese. Taiwanese men reportedly find their countrywomen to be disobedient and too independent minded. To improve the marriage prospects of Taiwanese women, the government has imposed strict quotas on the number of spouses who can immigrate each year: 1,080 from China, 360 from Indonesia, 420 from Burma, and so on.

◆ Political correctness may be coming to a map near you. At the latest meeting of the Domestic Names Committee of the U.S. Board of Geographic Names, activists from around the country had some demands: A Texas stream should definitely not be named Cripple Creek as a local judge wished, and two bodies of water in Minnesota called Squaw Lake should be renamed. The names are said to be culturally insensitive.

Scott Stantis



let their voices be heard—ain't that America? But they didn't reckon on the wrath of the "good government" bureaucrats at California's FPPC.

The political consulting firm that advised Morrison and Taylor neglected to tell them about FPPC filing requirements, as did a Port Hueneme city clerk. They didn't get around to filing legally required statements of organization, pre-election campaign statements, and semiannual campaign finance statements until after the campaign was over and they finally learned about the FPPC's legal demands. "As soon as we found out, we got all the papers and filed," Morrison says.

They were initially facing $10,000 in fines, but the FPPC, in recognition of their good faith, cut their five violations down to two and even lowered the possible $4,000 fine for those charges to $2,250. Of course, the erstwhile activists also had to pay for lawyers and trips to Sacramento to plead their case. Dealing with the FPPC gave Taylor "a real sick feeling. No one governs these people." Because of the FPPC's power over everyone involved in elections in California, Morrison found that pleas to their elected representatives for help fell on deaf ears. "Everyone is afraid of them," she says. "Our own state representatives wouldn't even talk to us."

Campaign finance laws are supposedly meant to curb the influence of big money on politics. In reality, they create sometimes insurmountable problems for grassroots activists. (See "Gagging on Political Reform," October 1996.) Jillynn Taylor—a housewife, no political sharpie—is clear about what she's learned from her encounter with the good government forces of campaign finance law: "This volunteer will not be involved in politics anymore."

Drug War Bust

By Ed Carson

Republicans have used recent reports of increased teen drug use to accuse President Clinton of being soft on drugs. But according to the latest FBI Uniform Crime Report, an estimated 588,963 marijuana arrests were made by state and local law enforcement in 1995—an all-time high. That's one person busted for pot every 54 seconds. About 86 percent of the arrests were for simple possession. All told, law enforcement made 1.5 million drug arrests in 1995, also a record, and up 41 percent from 1991.

State of the Unions

By Nick Gillespie

Recently, the General Accounting Office looked into on-the-taxpayer-clock union activities by the nearly 2 million federal employees represented by unions. The GAO investigated practices at the Postal Service, Veterans Affairs, the Internal Revenue Service, and the Social Security Administration, which

are represented by a total of 10 different unions. The results are mind-boggling, both for what they tell and what they cannot tell.

During fiscal 1995, for instance, SSA, with 52,000 collective-bargaining employees, reported 404,000 hours charged to union activities at an estimated salary cost of $11.4 million to taxpayers. The Postal Service, with 751,000 union employees, racked up 1.7 million hours, at an estimated cost of $29.2 million. The GAO suggests, however, that the time estimates are extremely low and inaccurate.

Stressing that designated federal employees have a legal right to do union activities such as contract negotiations and grievance procedures on the job, the GAO also underscored that the four agencies had no way of knowing whether they were being billed for legitimate tasks. Veterans Affairs, for instance, could not estimate how many hours employees spent on union-related activities. And three of the four agencies did not even know how many employees were authorized to charge time to union activities.

"Insufficient data exist on the amount of official time used for union activities, the cost of the time, and the number of people using that time," the GAO's Timothy P. Bowling told Congress.

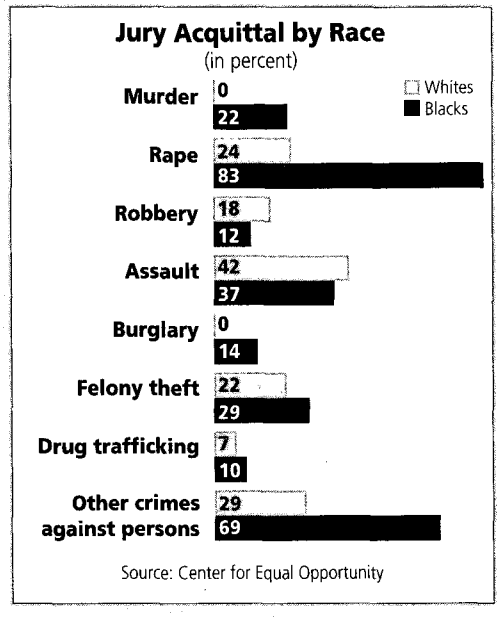
DATA

Race and Order

By Ed Carson

Do blacks get a fair shake from the courts? According to a study by Robert Lerner on behalf of the Center for Equal Opportunity, juries are more likely to acquit blacks than whites of serious crimes. Using data collected by the Bureau of Justice Statistics, Lerner examined 55,512 felony cases from America's 75 largest counties from May 1992.

In murder cases, juries acquitted African Americans 22 percent of the time, as opposed to zero percent for whites. For rape, 83 percent of blacks were found not guilty, but only 24 percent of whites were. Only for robberies (12 percent vs. 18 percent) and assaults (37 percent vs. 42 percent) were blacks acquitted less often than whites.



Jury acquittals only comprised 0.6 percent of all cases, but blacks also fared well by other measures. Including guilty pleas, plea bargains, dismissals, etc., blacks were less likely than whites to be convicted for 12 out of 14 types of felonies, the exceptions being felony traffic offenses and miscellaneous "other felonies."

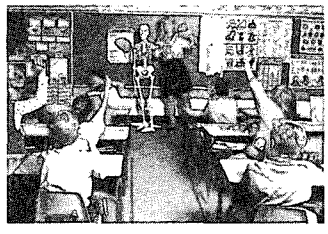
The study doesn't address whether blacks are unfairly arrested and charged more frequently than whites, but it does suggest that when they reach the court system, blacks do not face longer odds than whites.

Student Fees

By Brian Doherty

The idea that the proverbial government solution of throwing money at the problem is any answer to America's public education woes is becoming more untenable. A recent study from the National Bureau of Economic Research examines educational spending growth in America over the past century. From 1890 to 1990, authors Eric Hanushek and Steven Rivkin found, inflation-adjusted per student school expenditures increased 3.5 percent every year, on average.

The three main causes? Rising real wages of teachers, declining number of pupils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per teacher, and a disproportionate rise in educational spending on things *other* than teachers. Teachers' wages more than quintupled in 1990 dollars from 1890 to 1990. From 1970 to 1990 alone, the pupil-to-teacher ratio dropped from 21 to 15, which explains 85 percent of the instructional staff salary increase per student of that period. And educational spending on things other than teacher salaries has gone from one-fourth of total educational costs in 1890 to 54 percent in 1990.

Bitter Pill

By Virginia I. Postrel

Back in 1970, when anti-technology hype was at its height, Sen. Gaylord Nelson—most famous as the father of Earth Day—held widely publicized hearings on the evils of the birth control pill. They scared the bejesus out of millions of American women and helped cripple contraceptive research right up to the present. The lead witness was Hugh J. Davis, an assistant professor of obstetrics and gynecology at Johns Hopkins.

"It is medically unsound to administer such powerful synthetic hormones in order to achieve birth control objectives which can be reached by simple means of greater safety," he told the committee. "The synthetic chemicals in the pills are quite unnatural with respect to their manufacture and with respect to their behavior once they are introduced into the human body....It seems to me extremely unwise to officially license, sponsor, or encourage a long-range experiment ▶

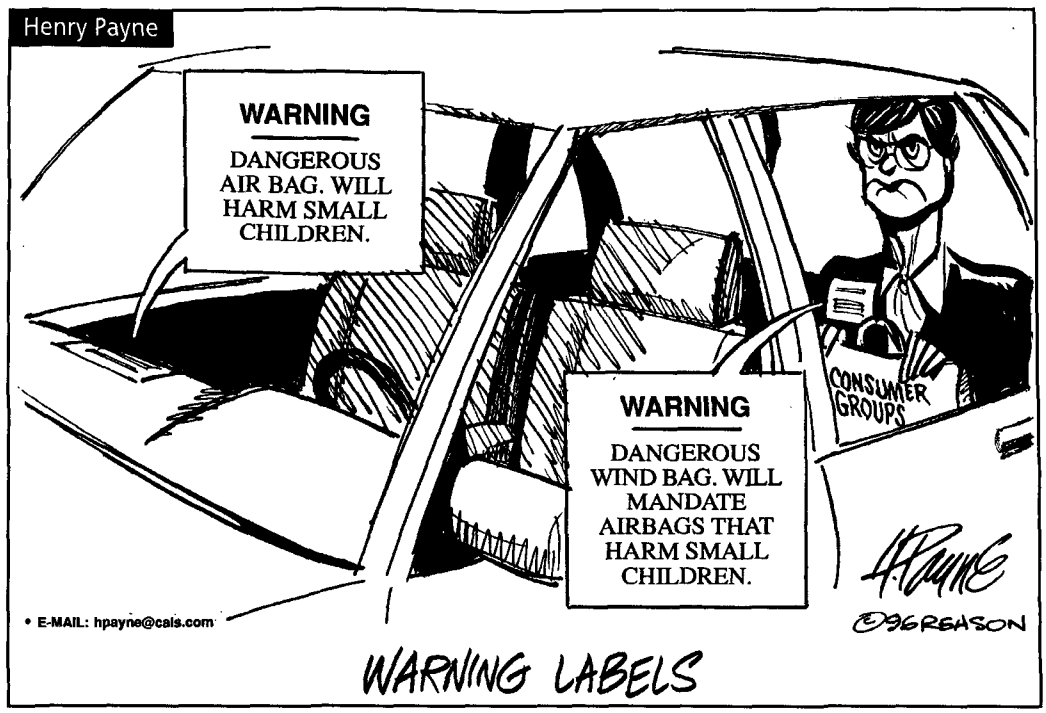
BRICKBATS

◆ A nasty case of sexual harassment has happened in Hamden, Connecticut. Mayor Lillian D. Clayman was looking at the new official car that had been delivered to her when she noticed the license plate. It was number HN-69. She immediately noticed the sexual connotation, and demanded that it be taken back. The police chief, John P. Ambrogio, who is in charge of these matters, told her that it was a number that had been assigned to the city by the Department of Motor Vehicles years ago. But the mayor saw through that excuse. She called it a "deliberate, vulgar, and sexist" attack by the police. The police chief replaced the plate, but he said the mayor's behavior made no sense.

◆ Saudi Arabia's top cleric has denounced travel brochures as a "great evil." Sheik Abdul-Aziz bin Baz warns that traveling to the West could expose young Muslims to temptation and corrupt their souls.

◆ Maybe Saudi youth could travel to Iran. In Tehran 28 teenagers have been arrested and sentenced. Their crime? Attending a party where Western music was played. Their sentences? Each was given 10 lashes with a whip and fined $33. Three of the youth were also given jail sentences.

◆ Speaking of prisons, an inmate in Britain's Parkhurst Prison hit upon a novel way to escape. He used a fluorescent-yellow felt pen to color his body. He hoped to make people believe he was jaundiced and get transferred to a less-secure hospital. The plan was foiled when a guard saw him coloring himself.



such as we now have in progress on the effects of chronic ingestion of synthetic hormones by millions of women."

Davis died in late October. The headline over his *New York Times* obituary identified him as the "gynecologist who invented the Dalkon Shield." That device not only contributed to deaths, miscarriages, and infections but led to the bankruptcy of a major corporation and the creation of a law requiring FDA approval of all new medical devices.

Hugh J. Davis deserves to be remembered: Few, if any, individuals have done as much damage to the twin causes of medical innovation and reproductive freedom.

Paradise Taxed

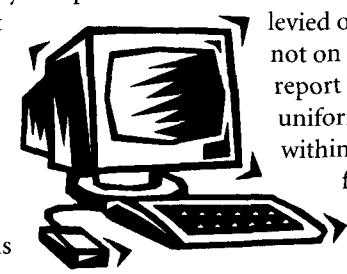
By Ed Carson

Taxes are apparently inevitable, even in cyberspace. Last spring the Florida Department of Revenue decided that companies doing business over the Internet are subject to the state's sales tax. Gov. Lawton Chiles has delayed enforcement until July 1, 1997, to study the issue of Internet taxation. But the Internet will be taxed—it's only a question of how and how much.

Sales of tangible products on the Internet are still relatively small, roughly $500 million in 1996, but they are expected to explode in the next few years. Naturally, state and local governments want a piece of the action.

On the face of it, that seems like a difficult task. The U.S. Constitution prohibits states from taxing interstate commerce, so states can only levy a sales tax on companies that have a physical presence in the same state as the consumer. (This is why interstate mail-order sales are exempt.)

But that physical presence can be almost ephemeral. If a Colorado company sells software to a Dallas resident, but the program is downloaded from a Texas-based server, the company has to collect taxes on the grounds that the software never physically left the state.



States could also argue that Internet and on-line service providers such as CompuServe act, in effect, as independent agents of companies doing business on the Internet. Under this interpretation every company selling over the Internet would have a taxable telecommunications nexus in every state.

But CompuServe and other heavy hitters in the industry have their own ideas about how the tax system for cyberspace should be designed. A report by the Interactive Services Association, which represents major Internet and on-line companies, says taxes on on-line transactions should be levied on the purchaser, not on industry. The report also calls for uniform tax rates within states, and uniform standards and definitions throughout the

ARTIFACT

Adeste Snobes

What do you give a PBS watcher who has—or at any rate *knows*—everything? Two catalogs have joined the holiday mail-order avalanche to deal with this pressing need. *Signals* is associated with the WGBH Educational Foundation, and *Wireless* with Minnesota Public Radio; both offer themselves to the "Fans and Friends" of public TV and radio, and are packed not only with gifts for Viewers Like You, but with Signs and Meaning as well.

Do your public media friends like books? Maybe they don't; there are few books offered. However, there is a *print* of a bookshelf, and the book-packed tie Newt Gingrich once wore. There are plenty of videotapes, including many PBS series (the only PBS "products"). The *Little Women* set includes both the Winona Ryder film and a book—a version of the screenplay. Louisa May Alcott is nowhere in sight.

But what really stands out are the many message sweatshirts. They ask, "Do You Have Change for a Paradigm?" Or define "Baroque" as being "Out of Monet." Or announce that, "Si Hoc Legere Scis Nimium Eruditionis Habes." There are dozens of them. Public media is the cultural forum for a "class" defined largely by its education. Yet these catalogs bulge with gentle parodies of intelligence—implying their customers are embarrassed by their over-instructed minds—even though this is the source of their status. Is it guilt? Status insecurity? The latter would certainly fit with PBS's hopeless Anglophilia. "If you find an American who is entirely class secure," advised Paul Fussell, "stuff and exhibit him." And do so on public TV.

—Charles Paul Freund

country. Bruce Reid, director of excise and property taxes for Microsoft and the chairman of the ISA taskforce that developed the study, says, "Our underlying goal is uniformity throughout the 50 states—clear rules so that companies are able to comply and we know who's entitled to collect taxes."

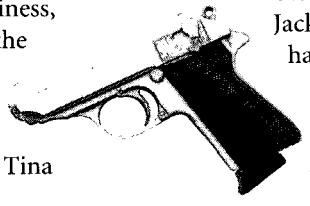
Governments also have their reasons for making Internet taxes uniform. If local governments aggressively tax the Internet, they may find that their tax base disappears. The city of Tacoma, Washington, recently reversed a decision to subject on-line service providers to the city's 6 percent telecommunications tax because it was concerned about losing its business-friendly reputation.

So industry and government priorities may shift Internet taxation to the feds, with a national sales tax. State and local governments would howl, but a national sales tax would face fewer constitutional and administrative problems, and it would be uniform throughout the country.

Weapons & Tactics

By Jacob Sullum

In 1973 Arthur Robert McCray bought a new Smith & Wesson revolver from a Florida gun dealer. In 1984 Stephen Mashney bought the used revolver, and the following year he moved to northern California, where a burglar stole the gun from his home in July 1992. Two weeks later a 16-year-old used the revolver to murder David Johnstone, a New York book editor who was in San Francisco on business, shooting him in the back during an attempted robbery. In 1995 the victim's wife, Tina Johnstone, sued Smith & Wesson in the U.S. District Court for the Eastern District of New York, arguing that the company should have known something like this was bound to happen.



Johnstone blames not only Smith & Wesson but the entire handgun industry. Her suit—which is joined by 29 other plaintiffs, including Freddie Hamilton, the mother of a teenager killed in 1993—names 49 companies. Alleging a pattern of "negligent marketing" that leads to injury and death, *Hamilton v. Accu-Tek* seeks $54 million in damages. Ordinarily, an attempt to hold manufacturers responsible for the criminal misuse of their products would not get very far. But U.S. District Judge Jack B. Weinstein has refused to dismiss the suit, and hearings continued in late October.

While noting that the plaintiffs seemed "unsure of their substantive legal theory," Weinstein said "it may be argued" that "only the collective action of the handgun industry makes the individual shootings giving rise to this suit possible." He said the plaintiffs could claim "the market is so flooded with handguns sold without adequate concern over the channels of distribution and possession, that they become a generic hazard to the community as a whole because of the high probability that [the] weapons will fall into the hands of criminals or minors."

This approach is much more sweeping than the theories used in two other partially successful lawsuits against gun makers. The Maryland Court of Appeals, in a 1985 decision that was later overturned by legislation, ruled that makers of small, inexpensive hand- ▶

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BRICKBATS

◆ Prosecutors and police in Woburn, Massachusetts, are investigating the Anchor Baptist Church. The church allegedly lured kids from a nearby housing project with promises of pizza and basketball games. But the children were instead preached to and given full-body baptisms. The church reportedly never even gave them any pizza. The children's parents are mostly Catholic, and quite upset.

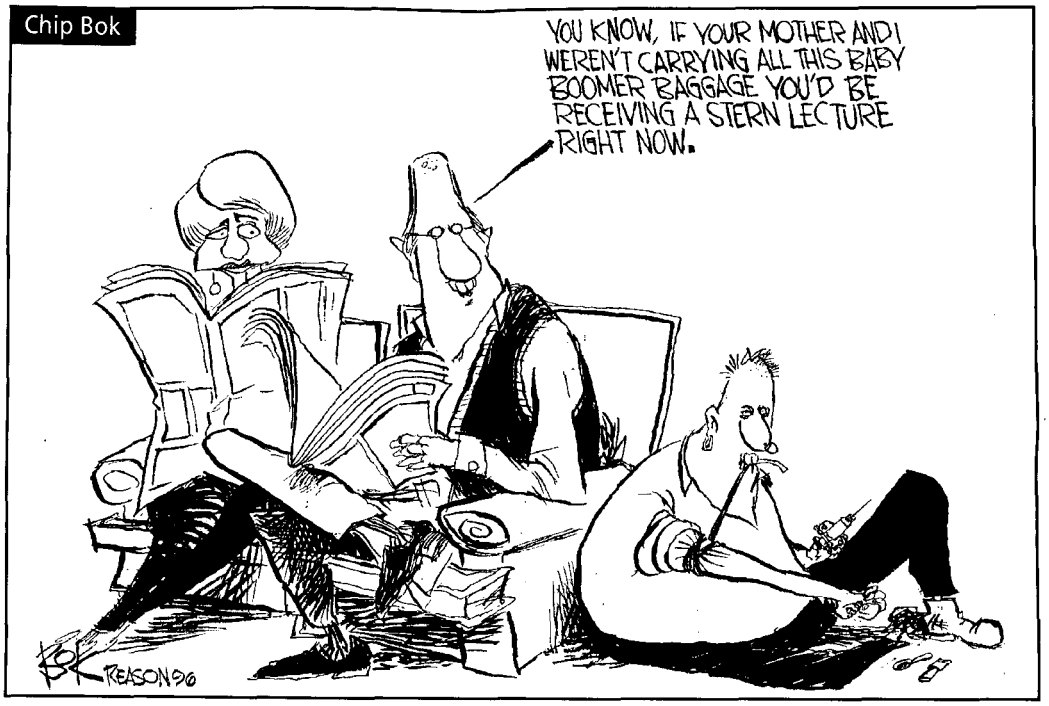
◆ In Spain, hundreds of panicked people called TV and radio station switchboards after a newscaster broke in with a report showing spaceships hovering over New York City. The report was actually an ad for the movie *Independence Day*. Text at the bottom of the TV screen clearly labeled it as such. But "apparently people can't watch footage, listen, and read at the same time," said Jose Luis Andarias, the ad executive behind the commercial.

◆ The book *God's Answers to Your Questions*, published by the Seventh-Day Adventist Church, has Roman Catholics outraged. The book likens the pope to the Beast in the biblical book of Revelation, making the papacy an ally of Satan and its followers tools of the devil.

◆ And in Amsterdam, police used a novel way to capture a suspected mugger. They took the tip of a thumb bitten off by one of his victims and matched it to prints in their files. Upon his arrest, the alleged assailant called the man who bit off his finger a "cannibal."

—Charles Oliver

Chip Bok

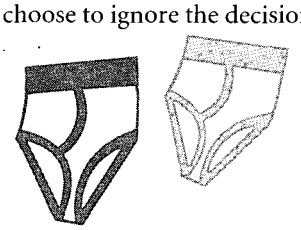

YOU KNOW, IF YOUR MOTHER AND I WEREN'T CARRYING ALL THIS BABY BOOMER BAGGAGE YOU'D BE RECEIVING A STERN LECTURE RIGHT NOW.
REASON'96

guns (a.k.a. "Saturday night specials") could be held liable when their products are used in crimes. In 1995 a California court ruled that the relatives of people killed in a shooting spree at a San Francisco law office in 1993 could sue the manufacturers of two "assault pistols" used in the attack. Both of these cases focused on particular kinds of handguns deemed especially suited to crime, whereas *Hamilton* covers all handguns. Paraphrasing Johnstone, *Newsday* reported that one aim of the suit "is to make the situation for gun manufacturers so expensive and intolerable that they either get out of the business or come begging for federal regulation."

Tighty-Whitey Trade

By Ed Carson

In the face of stagnant wages, corporate downsizing, and economic anxiety in general, at least one question has been answered: The $12 trillion U.S. economy can indeed survive imports of underwear from Costa Rica. That's the conclusion of a preliminary report by the World Trade Organization. The report followed a 1995 decision by the United States to impose quotas on underwear imports from the Central American nation to protect the domestic textile industry. The report found that the United States failed to demonstrate that Costa Rican imports seriously hurt the industry. Washington still has time to cut a face-saving deal with Costa Rica before a final WTO decision. The United States also could choose to ignore the decision.



Potato Correctness?

By Ed Carson

Remember the Irish—it's the law. In the state of New York, all public school children over 8 are required *by law* to study the Irish potato famine of the 1840s, which resulted in mass starvation and pressured a million Irish to emigrate to New York. This follows a 1994 law that requires New York public schools to teach students about slavery and genocide. In neighboring New Jersey, children must learn about the genocide of Armenians.

"This business of each group getting its own victimization written into legislation is a very bizarre way of studying history," Eric Foner, history professor at Columbia University, told *The Post Standard* of Syracuse.

Radical Idea

By Jacob Sullum

Emma Bonino, an Italian politician who serves as the European Union's commissioner for consumer affairs, is a member of the Radical Party, which is affiliated with the International Antiprohibitionist League. In 1993, when she was secretary

of the party and a member of the Italian Parliament, she addressed the Congress for the Normalization of Laws Against Drug-Related Crime in Buenos Aires, urging support for "a global campaign to repeal the three international conventions...that outlaw the production and trade of so-called narcotics." She noted that "there are plenty of excellent reasons to doubt that prohibition is the best strategy to fight the damage of drug taking."

So Bonino's views on drug policy are not exactly a secret. Still, she created quite a stir when she reiterated them in October. In interviews with *Le Parisien* and the *Daily Telegraph*, she expressed admiration for the Dutch, who tolerate the marijuana trade and emphasize harm reduction measures such as distribution of clean needles. She said the sale of "soft" drugs such as marijuana should be legalized, while "hard" drugs such as heroin should be dispensed under medical supervision. "If the trade became official," she told *Le Parisien*, "that would deprive organized crime of an important source of revenues. And if the drugs became available for a reasonable price, that would diminish the violence used by drug addicts in order to fund their habit." She also observed, "Drug taking is a private matter, just like taking sleeping pills or alcohol."

The response was swift and harsh, even though Bonino has no authority over drug policy. Swedish Commissioner Anita Gradin, who oversees the E.U.'s anti-drug efforts, said "advocating decriminalization of drug abuse makes no sense at all." Said Tony Newton, leader of the British House of Commons, "I can only say that I believe that would be a charter for drug dealers across Europe." And Joseph Califano, the former secretary of health, education, and welfare who heads the Center on Addiction and Substance Abuse in New York, wrote a piece for the *International Herald Tribune* in which he warned that repealing prohibition would lead to a huge increase in "the criminal conduct—assault, murder, rape, child molestation, violence, vandalism—that drug use spawns."

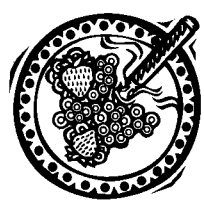
The drug warriors may have been a bit touchy because the E.U.'s European Drugs Observatory had just released a report on the effectiveness of their approach. It found "little relationship" between tough enforcement and drug consumption.

Healthy Living

By Ed Carson

In the 1973 Woody Allen film *Sleeper*, Allen's character wakes up in the future and is told in all seriousness that the key to a long and healthy life is drinking, smoking, and eating snack food. It's a memorable moment in the film because it's such a ridiculous idea, and everyone laughs. Or is it?

While it's hard to believe that the surgeon general will announce that tobacco is the path to clean living, new research is turning long-held health pronouncements on their heads. A new study of 500 Israeli elementary students published in the



American Medical Association's Archives of Pediatrics and Adolescent Medicine found that children who eat sugary cereals perform better in school because of their higher blood-sugar level. Earlier this year, a study presented at a American Heart Association conference found evidence that some food preservatives and flavorings may be partly responsible for the decline in heart disease over the past 30 years, because they contain chemical cousins of aspirin, which is known to reduce the risk of heart attacks. And after years and years of evidence, health officials in the United States are reluctantly conceding that alcohol has health benefits in moderation.

SOUNDBITE

Politics Makes Strange Guest Star Combinations

Since its debut in 1993, *Politically Incorrect* has consistently been the top-rated show on the Comedy Central cable channel. This January, the unconventional talk show that pairs celebrities and policy wonks moves to ABC, where it will air after *Nightline*. Senior Editor Nick Gillespie and Assistant Editor Brian Doherty talked with *PI*'s host and creator, Bill Maher.

Q: How do you define political incorrectness?

A: Basically, just honesty. It is like saying your kid is ugly, if he's ugly. It doesn't mean conservative or liberal. It means saying things that are true, that people are thinking but no one is saying.

Q: What's your most politically incorrect belief?

A: I'm for drug legalization. To me, there is no greater contradiction to the traditional doctrine about liberty than that. How can you be for personal liberty and then tell me what mood I can be in? There certainly shouldn't be any restrictions on what people do as long as they are not hurting somebody else—especially what they do with their own mind.

Q: What is your one belief people least want to hear?

A: My favorite cause is animals. When Christopher Reeve had his accident, we did a show that was respectful and tasteful. I certainly in no way tried to suggest that I was glad it happened. But I took it as animal abuse, you know. Most people go, "Are you kidding? Horseback riding is horseback riding." Well, you know, at one point, people said the same thing about slavery: "What do you mean, it's slavery? Of course we own them." If you try to make a horse jump over something that it doesn't want to jump over, I think it really should throw you off its back. You wouldn't want to go around with a monkey or something on your back all the time.

No Relief in Sight

Torture, despair, agony, and death are the symptoms of "opiophobia," a well-documented medical syndrome fed by fear, superstition, and the war on drugs. Doctors suffer the syndrome. Patients suffer the consequences.

David Covillion finally got relief from his pain with the help of Jack Kevorkian. The pain came from neck and back injuries Covillion had suffered in April 1987, when his station wagon was broadsided by a school bus at an intersection in Hillside, New Jersey. The crash compounded damage already caused by an on-the-job injury and a bicycle accident. Covillion, a former police officer living in upstate New York, underwent surgery that fall, but it only made the pain worse. Along with a muscle relaxant and an anti-inflammatory drug, his doctor prescribed Percocet, a combination of acetaminophen and the narcotic oxycodone, for the pain.

The doctor was uneasy about the Percocet prescriptions. In New York, as in eight other states, physicians have to write prescriptions for Schedule II drugs—a category that includes most narcotics—on special multiple-copy forms. The doctor keeps one copy, the patient takes the original to the pharmacy, and another copy goes to the state. After a year or so, Covillion recalled in an interview, his doctor started saying, "I've got to get you off these drugs. It's raising red flags." Covillion continued to demand painkiller, and eventually the doctor accused him of harassment and terminated their relationship.

"Then the nightmare really began," Covillion said. "As I ran out of medication, I was confined to my bed totally, because it hurt to move....At times I'd have liked to just take an ax and chop my arm right off, because the pain got so bad, but I would have had to take half of my neck with it." He started going from doctor to doctor. Many said they did not write narcotic prescriptions. Others would initially prescribe pain medication for him, but soon they would get nervous. "I'd find a doctor who would treat me for a little while," he said. "Then he'd make up an excuse to get rid of me." Eventually, Covillion went through all the doctors in the phone book. That's when he decided to call Kevorkian.

The retired Michigan pathologist, who has helped more than 40 patients end their lives, was reluctant to add Covillion to the list. At Kevorkian's insistence, Covillion sought help from various pain treatment centers, without success. He called Kevorkian back and told him: "I'm done. I have no more energy now. I just don't have the fight. If you don't want to help me, then I'll do it here myself." Kevorkian urged him to try one more possibility: the National Chronic Pain Outreach Association, which referred him to Dr. William E. Hurwitz, an internist in Washington, D.C., who serves as the group's president.

The day he called Hurwitz, Covillion was planning his death. "I had everything laid out," he said. "I got a few hoses and made it so it would be a tight fit around the exhaust

BY JACOB SULLUM

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pipe of my car. I taped them up to one of those giant leaf bags, and I put a little hole in the end of the bag. All I had to do was start the car up, and it would have filled the bag right up, pushed whatever air was in there out, and it would have filled the bag up with carbon monoxide. Same thing as what Dr. Kevorkian uses. And then I had a snorkel, and I made it so I could run a hose from the bag full of gas and hook it up to that snorkel, and all I had to do was put it in my mouth, close my eyes, and go to sleep. And that would have been it. I would have been gone that Friday."

But on Thursday afternoon, Covillion talked to Hurwitz, who promised to help and asked him to send his medical records by Federal Express. After reviewing the records, Hurwitz saw Covillion at his office in Washington and began treating him. "The last three years I've been all right," he said in a July interview. "I have a life." Yet Covillion was worried that his life would be taken away once again. On May 14 the Virginia Board of Medicine had suspended Hurwitz's license, charging him with excessive prescribing and inadequate supervision of his patients. At the time Hurwitz was treating about 220 people for chronic pain. Some had been injured in accidents, failed surgery, or both; others had degenerative conditions or severe headaches. Most lived outside the Washington area and had come to Hurwitz because, like Covillion, they could not find anyone nearby to help them.

In July, after the case was covered by *The Washington Post* and CBS News, the Pennsylvania pharmaceutical warehouse that had been supplying Covillion with painkillers stopped filling Hurwitz's prescriptions, even though he was still licensed to practice in D.C. The pharmacist who informed Covillion of this decision (in a telephone conversation that Covillion recorded) suggested that Hurwitz had prescribed "excessively high amounts." At the same time, he recommended that Covillion "find another doctor" to continue the prescriptions. Covillion's reply was angry and anguished: "There is no other doctor!"

Hurwitz may not be the only physician in the country who is willing to prescribe narcotics for chronic pain, but there are few enough that patients travel hundreds of miles to see them. "I call it the Painful Underground Railroad," says Dr. Harvey L. Rose, a Carmichael, California, family practitioner who, like Hurwitz, once battled state regulators who accused him of excessive prescribing. "These are people who are hurting, who have to go out of state in order to find a doctor. We still get calls from all over the country: 'My doctor won't give me any pain medicine.' Or, 'My doctor died, and the new doctor won't touch me.' These people are desperate."

So desperate that, like Covillion, many contemplate or attempt suicide. In an unpublished paper, Rose tells the stories of several such patients. A 28-year-old man who underwent lumbar disk surgery after an accident at work was left with persistent pain in one leg. His doctor refused to prescribe a strong painkiller, giving him an antidepressant instead. After seeking relief from alcohol and street drugs, the man hanged himself in his garage. A 37-year-old woman who suffered from severe migraines and muscle pain unsuccessfully sought Percocet, the only drug that seemed to work, from several physicians. At one point the pain was so bad that she put a gun to her head and pulled the trigger, unaware that her husband had recently removed the bullets. A 78-year-old woman with degenerative cervical disk disease suffered from chronic back pain after undergoing surgery. A series of physicians gave her small amounts of narcotics, but not enough to relieve her pain. She tried to kill herself four times—slashing her wrists, taking overdoses of Valium and heart medication, and getting into a bathtub with an electric mixer—before she became one of Rose's patients and started getting sufficient doses of painkiller.

Patients who cannot manage suicide on their own often turn to others for help. "We frequently see patients referred to our Pain Clinic who have considered suicide as an option, or who request physician-assisted suicide because of uncontrolled pain," writes Dr. Kathleen M. Foley, chief of the pain service at Memorial Sloan-Kettering Cancer Center, in the *Journal of Pain and Symptom Management.* But as she recently told *The New York Times Magazine,* "those asking for assisted suicide almost always change their mind once we have their pain under control."

One thing that supporters and opponents of assisted suicide seem to agree on is the need for better pain management. Concern about pain was an important motivation for two 1996 decisions by federal appeals courts that overturned laws against assisted suicide in New York and Washington. In the New York case, the U.S. Court of Appeals for the Second Circuit asked, "What business is it of the state to require the continuation of agony when the result is imminent and inevitable?" With the U.S. Supreme Court scheduled to hear a combined appeal of those decisions during its current term, the persistent problem of inadequate pain treatment is sure to be cited once again.

In medical journals and textbooks, the cause of this misery has a name: opiophobia. Doctors are leery of the drugs derived from opium and the synthetics that resemble them, substances like morphine and codeine, hydromorphone (Dilaudid) and meperidine (Demerol). They are leery despite the fact that, compared to other pharmaceuticals, opioids are remarkably safe: The most serious side effect of long-term use is usually constipation, whereas over-the-counter analgesics can cause stomach, kidney, and liver damage. They are leery because opioids have a double identity: They can be used to get relief or to get high, to ease physical pain or to soothe emotional distress.

Doctors are afraid of the drugs themselves, of their potency and addictiveness. And they are afraid of what might happen if they prescribe opioids to the wrong people, for the wrong reasons, or in the wrong quantities. Attracting the attention of state regulators or the Drug Enforcement Administration could mean anything from inconvenience and embarrassment to loss of their licenses and livelihoods. In the legal and cultural climate created by the eight-decade war on drugs, these two fears reinforce each other: Beliefs about the hazards of narcotics justify efforts to prevent diversion of opioids, while those efforts help sustain the beliefs. The result is untold suffering. Dr. Sidney Schnoll, a pain and addiction specialist who chairs the Division of Substance Abuse Medicine at the Medical College of Virginia, observes: "We will go to great lengths to stop addiction—which,

though certainly a problem, is dwarfed by the number of people who do not get adequate pain relief. So we will cause countless people to suffer in an effort to stop a few cases of addiction. I find that appalling."

Because pain is hard to verify objectively, the conflict between drug control and pain relief is inevitable. It can be alleviated through regulatory reform, but it can never be eliminated. A system that completely prevented nonmedical use of prescription drugs would also leave millions of patients in agony. Conversely, a system that enabled every patient with treatable pain to get relief would also allow some fakers to obtain narcotics for their own use or for sale to others. In deciding how to resolve this dilemma, it's important to keep in mind that people who use prescription drugs to get high do so voluntarily, while patients who suffer because of inadequate pain treatment have no choice in the matter.

A woman who recently served as a chaplain at a New York City hospital encountered many patients in severe pain. "You let them squeeze your hand as hard as they want to, and cry, scream, express their frustration," she says. "It's horrible being in pain. It's really debilitating. It kills the spirit."

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Clinicians and researchers have long remarked on the link between opiophobia and undertreatment of pain. In a 1966 pharmacology textbook, the psychiatrist Jerome H. Jaffe, who later became Richard Nixon's drug czar, noted that patients who take narcotics long enough develop tolerance (a need for larger doses to achieve the same effect) and physical dependence (resulting in withdrawal symptoms). But he cautioned that "such considerations should not in any way prevent the physician from fulfilling his primary obligation to ease the patient's discomfort. The physician should not wait until the pain becomes agonizing; *no patient should ever wish for death because of his physician's reluctance to use adequate amounts of potent narcotics.*"

Jaffe's admonition suggests that undertreatment of pain was common, an impression confirmed in the early 1970s by two psychiatrists at Montefiore Hospital and Medical Center in New York. Assigned to handle "difficult" patients, Richard M. Marks and Edward J. Sachar discovered a very good reason why so many continued to complain even after being treated with narcotics: They were still in pain. "To our surprise," they wrote in the February 1973 *Annals of Internal Medicine*, "instead of the primary issue being personality problems in the patient, in virtually every case it was found that the patient was not being adequately treated with analgesics and, further, the house staff for various reasons was hesitant to prescribe more."

Marks and Sachar's surveys of patients and doctors found "a general pattern of undertreatment of pain with narcotic analgesics, leading to widespread and significant distress." In part they blamed "excessive and unrealistic concern about the danger of addiction," which doctors erroneously equated with tolerance and physical dependence. Marks and Sachar emphasized the distinction between a patient who seeks a drug for pain relief and an addict who seeks a drug for its euphoric effects: The patient can readily give up the drug once the pain is gone, whereas the addict depends on it to deal with daily life. (The definition of addiction is fraught with social and political implications, but this distinction suffices for the purposes of this article.) Marks and Sachar estimated that less than 1 percent of patients treated with narcotics in a hospital become addicts. Although they urged better training in pain treatment, they concluded with a prescient warning: "For many physicians these drugs may have a special emotional significance that interferes with their rational use."

Subsequent studies confirmed that patients treated with narcotics rarely become addicts. In 1980 researchers at Boston University Medical Center reported that they had reviewed the records of 11,882 hospital patients treated with narcotics and found "only four cases of reasonably well documented addiction in patients who had no history of addiction." A 1982 study of 10,000 burn victims who had received narcotic injections, most of them for weeks or months, found no cases of drug abuse that could be attributed to pain treatment. In a 1986 study of 38 chronic pain patients who were treated with opioids for years, only two became addicted, and both had histories of drug abuse.

Despite such reassuring findings, many patients continued to suffer because of their doctors' opiophobia. In December 1987 *The New York Times* ran a story with the headline, "Physicians Said to Persist in Undertreating Pain and Ignoring the Evidence." Russell Portenoy, director of analgesic studies at Memorial Sloan-Kettering Cancer Center, told the *Times*, "The undertreatment of pain in hospitals is absolutely medieval....The problem persists because physicians share the widespread social attitudes that these drugs are unacceptable." He added that "many physicians fear sanctions against themselves if they prescribe the drugs more liberally." The article cited a recent survey in which 203 out of 353 patients at a Chicago hospital said they had experienced "unbearable" pain during their stay. More than half were in pain at the time of the survey, and 8 percent

called the pain "excruciating" or "horrible." Most of the patients said nurses had not even asked them about their pain. The same study found that nurses were dispensing, on average, just one-fourth the amount of painkiller authorized by physicians.

The ordeal of Henry James, which began and ended the same year the *New York Times* article appeared, illustrates this stingier-than-thou tendency. James, a 74-year-old with prostate cancer that had spread to his leg and spine, was admitted to Guardian Care of Ahoskie, a North Carolina nursing home, in February 1987. Like many patients in the late stages of cancer, James was in severe pain, and his doctor had prescribed 150 milligrams of morphine every three or four hours, "as needed." The nursing staff thought that was far too much. They started cutting back his doses, substituting headache medicine and placebos. He received 240 doses in January but only 41 in February. The nursing supervisor, Rebecca Carter, told James and his family that she didn't want him to become an addict. She also said that if he took too much pain medication early on, it wouldn't work anymore when he really needed it.

James died after four months of agony. His family sued Guardian Care, and at the trial pain experts testified that the amount of medication Carter and her staff dispensed was grossly inadequate. They also noted that narcotic doses can be increased indefinitely to compensate for tolerance, so Carter's concern that the medicine would stop working was "ridiculous." In November 1990 the jury ordered the nursing home to pay James's estate $15 million, including $7.5 million in punitive damages. After the verdict, an unrepentant Carter told the *Los Angeles Times* "nothing whatsoever has changed....We still give drugs the way we always have."

Outside of Guardian Care, however, things were starting to change by the mid-'80s. As critics drew attention to the torture inflicted by undertreatment, the use of painkillers began rising substantially. Between 1979 and 1985, for example, consumption of oxycodone and hydromorphone rose 40 percent and 67 percent, respectively, according to DEA figures. The National Institute on Drug Abuse acknowledged the problem of opiophobia. In 1989 NIDA Director Charles Schuster confessed, "We have been so effective in warning the medical establishment and the public in general about the inappropriate use of opiates that we have endowed these drugs with a mysterious power to enslave that is overrated." A 1993 article in NIDA's newsletter said "these drugs are rarely abused when used for medical purposes" and lamented that "thousands of patients suffer needlessly." In 1992 and 1994 the U.S. Department of Health and Human Services issued guidelines urging more aggressive treatment of postoperative pain and cancer pain, respectively. The 1994 guidelines said 90 percent of cancer pain could be controlled with available methods. On the same day that HHS released the guidelines, *The New England Journal of Medicine* published a national study estimating that 42 percent of cancer outpatients do not receive adequate pain treatment.

It is startling to realize, as the end of the 20th century approaches, that the idea of giving patients enough medication to relieve their pain is just catching on. One reason for the slow progress is that advocates of better pain treatment have been fighting deeply rooted prejudices. Americans have always had mixed feelings about psychoactive substances. To deal with our ambivalence, we tend to divide drugs into neat categories: good and bad, legal and illegal, therapeutic and recreational. We are not comfortable with drugs that straddle categories, as the opioids do. The discomfort is strengthened by historical experience, ranging from Civil War veterans hooked on morphine to middle-class housewives hooked on over-the-counter remedies in the years before the Harrison Narcotics Act of 1914. The nexus between medical treatment and opiate addiction was vividly portrayed in Eugene O'Neill's *Long Day's Journey into Night*, written in 1940 and set in 1912. Mary Tyrone, the wife of a stage actor, is a shaky, nervous woman who uses morphine to escape her troubles. She became addicted as a result of injections she received following the birth of her son. "I was so sick afterwards," she says, "and that ignorant quack of a cheap hotel doctor—all he knew was I was in pain. It was easy for him to stop the pain."

RICHMOND TIMES DISPATCH

Dr. William Hurwitz consults with his attorney as the Virginia Board of Medicine prepares to revoke his license. While Hurwitz's legal battles continue, his patients are left to suffer severe pain.

Patients still worry about getting hooked on painkillers. Schnoll, the Virginia pain and addiction specialist, cites the impact of anti-drug propaganda "telling us that there's an addict on every corner, under every stone. So of course people are fearful. I find that my own patients are often unwilling. I have to convince them to take the medications I'm prescribing them." Foley, the Sloan-Kettering pain specialist, says the problem is especially vexing in the case of children. "Parents are so afraid of addicting their kids that they do not want to treat them," she says. "They say, 'The pain's not so bad,' or, 'We don't want him to be sleepy,' or, 'We don't want to make him an addict.' They say to the kid, 'Be tough.' But they're very torn

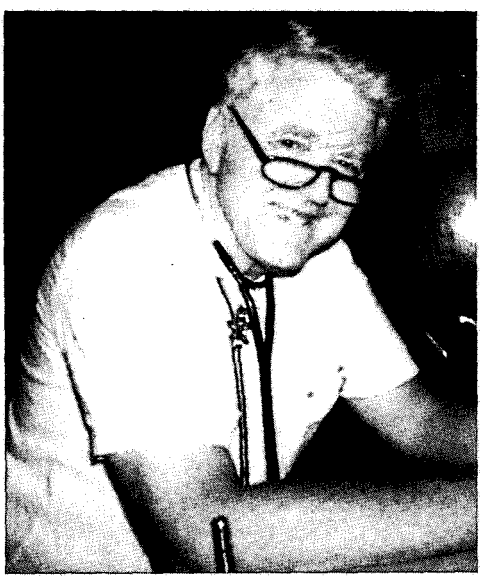
and confused. They're afraid of the drugs, because every parent has heard Nancy Reagan say, 'Say no to drugs.' So they're saying, 'My God! Drug addiction could be worse than my child's cancer.' "

By perpetuating such attitudes, the war on drugs obstructs pain relief. Through efforts to prevent narcotics from falling into the wrong hands, it has a more direct effect. A 1987 DEA report cites declines of 30 percent to 55 percent in the use of Schedule II drugs within two years after the adoption of multiple-copy prescription programs in various states during the 1960s and '70s. "I think it's a testament to the percentage of misprescribing and criminal prescribing that goes on," says Gene Haislip, the DEA's director of diversion control. "I don't think there's any evidence that they're discouraging appropriate medical use. We think there's some evidence to suggest they're discouraging *in*appropriate prescribing, but I don't have any reason to think they really have an impact on legitimate practitioners." Haislip likens compliance with a multiple-copy prescription program to filing an income tax return. "We don't decide not to make money because we have to report it," he says. "And I don't think doctors are deciding, 'Well, this patient isn't going to get medical treatment that's appropriate because somewhere somebody may read something and ask me some questions.' "

The tax code, of course, has a big impact on the way people make (or don't make) money. And despite Haislip's reassurances, there is substantial evidence that prescription monitoring has a chilling effect on the practice of medicine. To begin with, a large percentage of doctors in multiple-copy states—in California, almost half—do not even request the special forms, which suggests that "legitimate practitioners" are deterred by the hassle and scrutiny involved. "When I was in Illinois," says Sidney Schnoll, "there were physicians who just didn't want to carry triplicate forms. Sometimes they would call me up and say, 'You have triplicates, don't you? Can you write a prescription for so-and-so?' That's not good medicine."

Furthermore, it hardly seems plausible that frivolous or fraudulent prescriptions could account for a third to a half of a state's licit narcotic use, as Haislip suggests. The limited research on this question does not support that view. A 1984 study reported in the *American Journal of Hospital Pharmacy* found that Schedule II prescriptions at a major Texas hospital dropped more than 60 percent the year after the state began requiring triplicate forms for such drugs. At the same time, prescriptions of analgesics not covered by the program rose. A 1991 study reported in *The Journal of the American Medical Association* found a similar pattern in New York state, which added benzodiazepines, a class of sedatives that includes Valium, to the drugs covered by its monitoring program in 1989. Prescriptions for benzodiazepines dropped substantially in New York, while use of several other sedatives rose, even as consumption of those drugs fell in the rest of the country. The researchers noted that "[t]he alternative sedative-hypnotic medications are less effective, more likely to be abused, and more dangerous in overdose than benzodiazepines." These studies suggest that multiple-copy prescription programs lead physicians to replace monitored drugs with less appropriate alternatives.

This sort of behavior is reinforced every time a conscientious doctor gets hassled by the authorities because someone thought his prescriptions looked suspicious. In 1987 two state drug agents visited the office of Ronald Blum, associate director of New York University's Kaplan Comprehensive Cancer Center. "They showed me their badges and guns, and read me my rights," he told the *Journal of NIH Research*. It turned out that Blum had filled out some narcotic prescription forms incorrectly. The Department of Health charged him with three administrative violations, including failure to report his cancer patients to the state as habitual drug users. A year and a half later, after Blum had spent $10,000 in legal fees, the state finally dropped the charges. In 1987 the DEA investigated Portland, Oregon, oncologist Albert Brady because he was prescribing high doses of Dilaudid to a cancer patient in a nursing home. Although the DEA concluded that Brady was not supplying drugs to the black market, it notified the state Board of Medical Examiners, which fined him $5,000 for overprescribing and suspended his license for a month. It does not take many incidents like these to "have an impact on legitimate practitioners." Brady told the *Journal of NIH Research* that his two partners "changed their practice overnight and became reluctant to prescribe sufficient doses of painkillers."



Dr. Harvey Rose: The California family practitioner spent five years and $140,000 in legal fees defending himself against state regulators who said he overprescribed narcotics.

As the Brady case illustrates, even in states that do not require special forms for certain drugs, physicians have to worry about attracting the attention of state licensing boards. A 1991 survey of 90 physicians reported in the *Wisconsin Medical Journal* found that most were concerned enough about regulatory scrutiny to prescribe lower doses, indicate smaller amounts, allow fewer refills, or select a different drug than they otherwise would have. Given the attitudes of many regulators, such caution is understandable. In 1992 the University of Wisconsin Pain Research Group surveyed state medical board members throughout the country.

The results, as reported in the newsletter of the American Pain Society, were striking: "Only 75% of medical board members were confident that prescribing opioids for chronic cancer pain was both legal and acceptable medical practice....If the patient's chronic pain did not involve a malignancy, only 12% were confident that the practice was both legal and medically acceptable." Since these are the people who define the limits of appropriate medicine, their beliefs are bound to affect the treatment of pain.

Americans have always had mixed feelings about psychoactive substances. To deal with our ambivalence, we tend to divide drugs into neat categories: good and bad, legal and illegal, therapeutic and recreational. We are not comfortable with drugs that straddle categories, as the opioids do.

Dr. C. Stratton Hill, a professor of medicine at the M.D. Anderson Cancer Center in Houston, became interested in the impact of regulatory expectations on medical practice about a decade and a half ago. "Patients with obvious cancer pain were given doses that were not adequate," he says. "So I began looking at why physicians were reluctant to prescribe opioids in appropriate amounts, and I realized that the bottom line was that they were afraid of sanctions by regulatory agencies."

Hill and other physicians lobbied for what came to be known as the Intractable Pain Treatment Act, which the Texas legislature approved in 1989. Essentially, the law said doctors would not be punished for prescribing narcotics to patients suffering from pain that could not be relieved through other means. But this assurance "did not make any difference in what the doctor did," Hill says, "because there was no commonly understood standard of practice. The doctor could still be charged and have to defend himself, and that cost money. Maybe the doctor would win, but that would be $25,000 later."

In 1995 Hill and his colleagues convinced the state Board of Medical Examiners to adopt rules clarifying the vague provisions of the state Medical Practice Act under which doctors were most commonly charged. Under the new rules, a doctor who prescribes a drug in good faith for a legitimate medical purpose (including pain relief) is not subject to sanctions, provided he observes certain safeguards and keeps careful records. Hill thinks the new policy may be having an impact. The year after the rules were issued, 17 doctors were charged under the relevant sections, compared to 37 the year before.

Hill's work in Texas helped inspire similar efforts in California, where Harvey Rose emerged from his battle with regulators—which took $140,000 in legal fees and five years to resolve—determined to help other doctors avoid similar conflicts. In 1990 the state legislature adopted an Intractable Pain Treatment Act modeled after the Texas statute, and in 1994 the Medical Board of California issued guidelines intended to reassure wary doctors. Although California's current approach is decidedly more enlightened than the policies of other states, Rose says "doctors are still fearful. They just don't want to deal with patients like this, because they're afraid it's too difficult. They're never sure if they're getting enough records and covering their butts enough. It's much easier just to say, 'No, I'm sorry. I don't take care of your kind.' "

That was essentially the response encountered by Cynthia A. Snyder, a nurse who recently described her own search for pain relief in *The Journal of Law, Medicine, and Ethics.* After a cerebral aneurysm and brain surgery in 1983, Snyder suffered from seizures, memory loss, and "terrible, unrelenting pain." But she soon learned that "I lacked the 'proper diagnosis' to control my pain. I did not have terminal cancer." Like many other patients in the same situation, Snyder found that her desperation for relief was viewed with suspicion. "Several times," she writes, "I was openly accused of being an 'addict' and of falsely reporting chronic pain just to obtain prescription drugs....Finally, I found myself begging, as though I were a criminal." After five years of suffering, she found a physician willing to prescribe regular doses of codeine. "Within two weeks, I felt reborn!" she recalls. "I began writing again. My doctorate was completed, and once more I began to teach part-time. *My hope was restored, and my life was no longer crippled by constant severe pain.*"

Eventually, Snyder reports, "the precise neuropathology of the pain was discovered." But that was years after her brain surgery. When she was searching for a doctor to help her, she could not offer any definitive evidence of her pain. There were records of the aneurysm and the operation, but only her complaint testified to her ongoing suffering. This is often the case with intractable pain. How do you prove the existence of migraine headaches or back pain, not to mention poorly understood conditions such as fibromyalgia and chronic fatigue syndrome? A doctor can take a patient's history, inquire about symptoms, and perform an exam. He can consider the patient's character and reputation. But in the end, he is only surmising that the pain is real. Ultimately, he has to take the patient at his word, knowing that misplaced trust could mean professional ruin.

Ask William Hurwitz. The doctor who offered David Covillion an alternative to a Kevorkian-style death lost his license in August, as did Jerome A. Danoff, the pharmacist who filled prescriptions for many of Hurwitz's patients. The investigation began in May 1995, when agents of the DEA and the Virginia Department of Health Professions visited Danoff's store because a wholesaler had reported unusually large orders of narcotics. Hurwitz asked his patients to sign waivers of confidentiality and opened up his records to the investigators. A year later, when relatives of two patients who had died in January 1996 complained to the Virginia Board of Medicine, the board suspended Hurwitz's license, charging him with misprescribing not only for those patients but for 28 others.

It's doubtful that the deaths resulted from Hurwitz's negligence. One patient, a Tennessee man with a head injury that impaired his sense of smell, died after eating rotten chicken fajitas and vomiting all weekend. Hurwitz believes he died of intestinal hemorrhaging caused by food poisoning, but the medical examiner, after finding a lot of empty Dilaudid bottles, concluded that the man had died of an overdose, a theory that was not supported by a blood test. On the other hand, needle tracks indicated that the man had been dissolving his painkiller and injecting it, contrary to Hurwitz's instructions, and his girlfriend said he had been taking excessive doses of a muscle relaxant. In the other case, which involved a Florida woman suffering from facial pain after failed jaw surgery, toxicology tests showed that she had taken oxycodone and morphine in much higher doses than Hurwitz had prescribed. He believes her death was a suicide, and the patient's mother, who defends him, concurs. Her ex-husband thinks his daughter died of an accidental overdose and blames Hurwitz.

In 1987 two state drug agents visited the office of Ronald Blum, associate director of New York University's Kaplan Comprehensive Cancer Center. "They showed me their badges and guns, and read me my rights." It turned out that Blum had filled out some narcotic prescription forms incorrectly.

The investigators found one former patient who complained that Hurwitz had given him too many pills and too little information about their side effects. But none of his current patients had anything bad to say about him. Many traveled long distances to show their support at his hearing before the Board of Medicine, and more than 50 testified on his behalf. Hurwitz's motives were not in doubt, and the hearing focused largely on the amounts of medication he had prescribed. His patients were taking anywhere from 10 to 200 pills a day.

Hurwitz explained that some patients are especially resistant to narcotics to begin with, and all develop tolerance. He insisted that the number of pills is not the issue, since a patient who would otherwise be incapacitated by pain can function well on doses of narcotics that would kill the average person. In fact, Virginia has an Intractable Pain Treatment Act that allows doctors to prescribe narcotics "in excess of the recommended dosage upon certifying the medical necessity." Dr. Mitchell Max, director of the Pain Research Clinic at the National Institutes of Health, testified: "I see nothing wrong with the doses, the amount, the number of pills per se....He is just taking regimens that work in cancer patients that everyone agrees on, and using them in people who had life-impairing, or even life-threatening, levels of pain....We routinely give doses up to 10 times that size in patients with cancer."

The state questioned the thoroughness of Hurwitz's examinations, documentation, and monitoring. Hurwitz says most of his pain patients came to him with well-established problems, and "my main purpose in doing the diagnosis was to make sure that the patients were who they said they were. If they said they had back surgery, I wanted to see a back scar. If they said they had no leg, I wanted to look at the stump. So my physical exam was really limited to confirmatory findings that would illustrate the complaints and make sure they weren't conning me." As for monitoring, he saw patients who lived in the area once a month, but those who lived hundreds of miles away might visit his office only once or twice a year. The visits were supplemented by a monthly written report and telephone calls.

"The average practitioner does have reservations about prescribing long-term opiates," testified Dr. Stephen P. Long, director of acute pain services at the Medical College of Virginia Hospitals. "I would have performed a more thorough physical exam. I would like to have seen more detailed documentation." On the other hand, Dr. James Campbell, director of the Blaustein Pain Treatment Center at Johns Hopkins University, said Hurwitz "is doing heroic things for his patients. I think what he is doing involves enormous sacrifice. There are a lot of bad doctors out there, but he is not one of them."

On August 10, after the longest hearing in its history, the Virginia Board of Medicine found Hurwitz guilty of inadequate screening, excessive prescribing, and deficient monitoring. It revoked his license, saying it would be restored after three months if he agreed to take courses in narcotic prescription, pharmacology, psychiatry, addiction, medical record keeping, and pain management. Even then, he would be forbidden to prescribe narcotics for a year. Hurwitz has registered for the courses, but he has also filed an appeal in Arlington Circuit Court. After the Virginia ruling, the D.C. Board of Medicine suspended Hurwitz's license. Unable to practice, he had to give up his office. About the same time, the Virginia Board of Pharmacy revoked Jerome Danoff's license for two years and fined him $10,000. He also planned to appeal.

Meanwhile, Hurwitz's patients were left high and dry. "I'm flabbergasted," he told *The Washington Post* after his Virginia license was revoked. "The Board of Medicine has told my patients, 'Drop dead.' " Said Laura D. Cooper, a patient with multiple sclerosis: "The board has made no provision for the patients. If I can't get medicine, I'm going to die the next time I get sick, and that's not histrionics. Some of us are candidates for suicide right now." Cooper, an attorney, has filed a federal class-action suit against the Virginia Board of Medicine, the Department of Health Professions, and the DEA on behalf of herself and Hurwitz's other pain patients.

David Covillion is not a party to the suit. He killed himself on September 11.

Jacob Sullum (jsullum @aol.com) is a senior editor of REASON.

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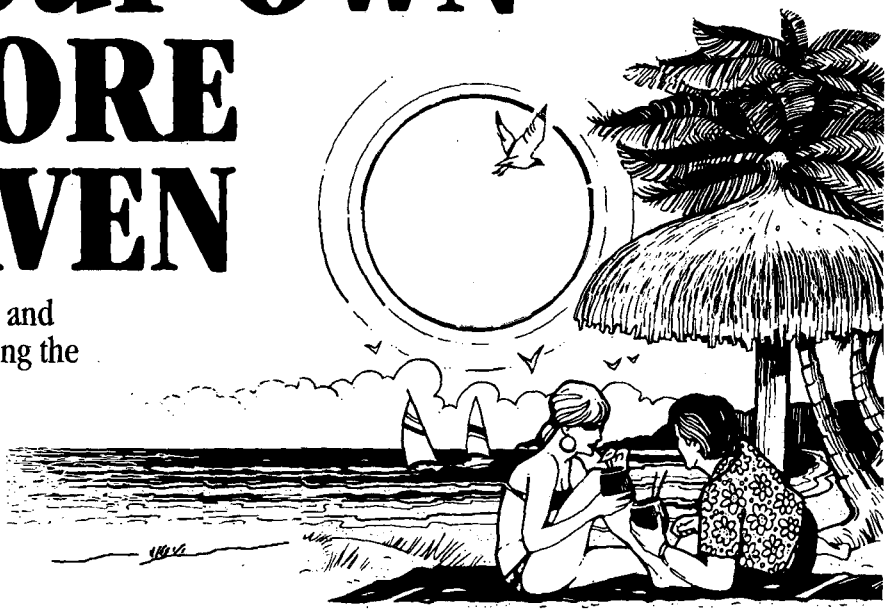

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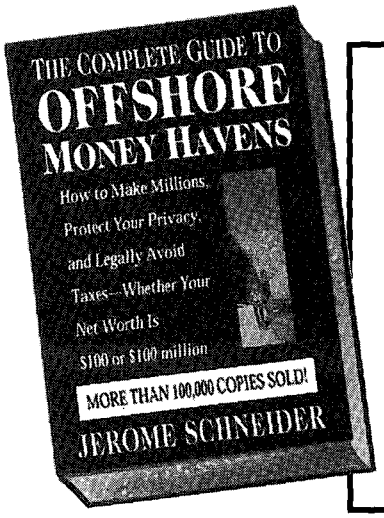
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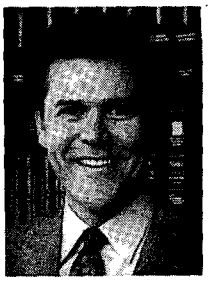

Jerome Schneider

About the Author...

Jerome Schneider is a foremost authority on international finance and investing. For more than 20 years, he has helped businessmen, investors and entrepreneurs make and save fortunes using the world's offshore financial centers.

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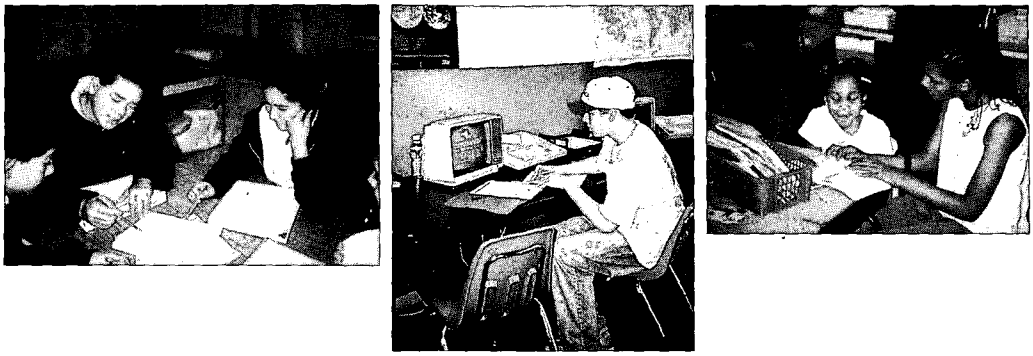

The school choice movement is divided over tactics and faces enormous establishment resistance. But it may still get what it wants.

By Rick Henderson

During the first presidential debate on October 6, President Clinton made a startling admission. "I support school choice," he said. "If a local school district in Cleveland, or any place else, wants to have a private school choice plan, like Milwaukee did, let them have at it." While the president has often talked one way and governed another, he usually allows himself more wiggle room. As Reagan administration education official Chester E. "Checker" Finn Jr. wrote in *The Wall Street Journal* a few days later, Clinton's unambiguous statements on education made it appear that the only differences between the two candidates were whether to subsidize vouchers with federal tax dollars (Bob Dole's plan) and whether to abolish the Department of Education. Supporters of school choice seem to have won the debate.

Over the past five years, vouchers and other significant education reforms have moved from presidential debates, think tanks, and academic conferences to thousands of school districts nationwide. And no wonder. Since 1960, test scores and other measures of achievement have taken a downward spiral even though inflation-adjusted spending on elementary and high schools has more than quadrupled. In most inner cities, the schools resemble prisons and the crime rate on school property approaches that of the neighborhood at large. And teachers' unions, backed by the bureaucratic establishment, go ballistic any time reforms are suggested that threaten the status quo. The intellectual marketplace has been ripe for new ideas.

Parents, with the help of education reformers and a few politicians, have pushed through a number of school choice initiatives. Cleveland has joined Milwaukee to offer tuition vouchers to a couple of thousand low-income students. Twenty-six states have established or are setting up "charter schools" —publicly funded schools with specialized curricula that are exempt from many union and other regulations. New York City's John Cardinal O'Connor offered to enroll 5 percent of the city's most difficult to educate students in parochial schools; Mayor Rudolph Giuliani accepted the offer, originally floating the prospect of using vouchers to fund the transfers. (The money must now come from private sources.) New York's effort would be far from unique: Nationwide, more than 100,000 "difficult to educate" students—young people with physical handicaps, learning disabilities, emotional troubles, or involvement with the juvenile-justice system—are already enrolled in private secular and religious schools at taxpayer expense.

School choice supporters face a dilemma: Universal vouchers may be the only way to assure a complete overhaul of the government schools, but any political momentum vouchers now have is concentrated on those plans that would help only low-income parents.

While all this ferment is under way, debate about the direction of education reform is raging within libertarian circles, where most of these ideas originated. School choice supporters face a dilemma: Universal vouchers may be the only way to assure a complete overhaul of the government schools, but any political momentum vouchers now have is concentrated on those plans that would help only low-income parents. Hence the disagreement.

Nobel laureate Milton Friedman, who invented vouchers, criticizes proposals that target only low-income parents. He has always advocated making vouchers available to all parents who remove their children from public schools. Limiting vouchers to poor children, he says, prevents an effective private alternative to government schools from developing. Meanwhile, Institute for Justice President William "Chip" Mellor and Vice President Clint Bolick defend means-tested plans in court. They believe choice plans that target low-income families can weaken the teachers' unions and transform the education monopoly while saving a generation of children from hellish inner-city schools. Friedman and the institute represent the poles of the debate, with other school choice advocates falling somewhere in between—liking the purity of universal vouchers but attracted to the political viability of means-tested experiments.

Even as these internal debates intensify, the primary danger vouchers pose to the schooling monopoly may be indirect. As a response to the threat of vouchers, the system of compulsory schooling is undergoing subtle but potentially far-reaching changes. Supporters and critics of vouchers concede that it may take a generation to break the public school monopoly. Yet, at the margins, changes are just beginning that may be as effective in eroding the system of tax-financed common schools, perhaps without a single large voucher program ever being enacted. And charter schools, which are increasing in both numbers and popularity, might offer the greatest possibility to transform elementary and secondary schooling.

Original Intent

Milton Friedman first proposed school vouchers in a 1955 academic article. His original idea was to provide any student who left a public school a voucher equal in value to the average amount spent per student by the local school district. In the intervening years he has modified his position slightly, arguing that the private sector should be able to provide schooling for less than the government; he now thinks vouchers valued at about half the per-pupil expenditure would be sufficient to entice private schools to take students from the government schools.

From the start, Friedman has argued that the government's monopoly on schooling could be challenged only by "the rapid establishment of an industry [in private schools] that's large enough to have clout." He invented vouchers as a mechanism to generate funding for the creation of this alternative market, which might include for-profit schools as well as religious or secular schools operated by nonprofit organizations.

Friedman says he got part of his inspiration for vouchers from fellow Nobel laureate F. A. Hayek, "who taught me that every major advance in society originated from the top down rather than the bottom up." This doesn't mean central planning. Rather, from the automobile to television to the personal computer, new products with a widespread impact must first be tested by "early adopters"—those individuals with enough money or technical skills to try something new and see if it might appeal to a larger group of consumers. These early adopters both supply the initial market test, and they finance the development and learning that enable producers to create things more cheaply, making it possible to bring these innovations to people of more modest incomes.

The "early adopter" phenomenon is one reason Friedman has promoted universal vouchers over those targeted specifically at low-income students. "The key," he says, "is to provide an incentive for private entrepreneurs to fight the education establishment." He predicts that the first commercial education efforts will result in high-tuition, for-profit "Rolls Royce schools," primarily targeted at wealthy parents, where innovations in curricula, teaching, and technology will be tested.

Friedman acknowledges that we can't predict what shape a competitive education market would take. "We know from the experience of every other industry how imaginative free enterprise can be, what new products and services can be introduced, how driven it is to satisfy the customers—that is what we need in education," he wrote in a *Washington Post* column. But he does have a vision: He believes that vouchers would stimulate

demand for "Rolls Royce" schools. "We know that 37 percent of parents in the top income brackets in California educate their children privately," he says. "With a real [universal] voucher in place, that number could easily reach 50 percent." And these new schools would differ from today's exclusive academies because they would be commercial enterprises as well as centers of learning—and because the prospect of a universal market would create pressures to replicate successful experiments, and to bring the cost down over time.

Friedman believes those parents who send their children to these high-priced commercial schools will become the early adopters who demand top-notch schools for their children—and that the most innovative features of their schools could eventually be replicated in more modestly priced "McDonald's schools," profitably providing quality education at a price people with lower incomes could afford.

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The potential market for entrepreneurial schooling is enormous. "The cost of government elementary and secondary schooling in the United States is about $300 billion a year," Friedman says. "Total worldwide spending on the computer market is $150 billion." If even half the money spent on government schools were to enter a competitive marketplace, "you're talking about establishing a new, major industry." Friedman and his wife Rose, a fellow economist, have decided to invest most of their time—and much of their fortunes—promoting their vision of education reform. They have established the Milton and Rose Friedman Foundation to study and support universal voucher programs.

Inner-City Rescue

Neither a bill nor an initiative establishing universal vouchers has passed in a legislature or won on a statewide ballot since Friedman developed the idea. Instead, vouchers have been means-tested, targeted at low-income parents. It's over the composition of vouchers that Friedman says "the real and very important debate is currently under way."

Friedman has always opposed what he calls "welfare vouchers," arguing that they separate individuals because of their incomes. He reasserts that as long as public schooling remains an entitlement, tuition vouchers should be considered a form of tax relief, and "people of all income levels are entitled to get some of their taxes back if they relieve the government of the burden of providing schooling for their children."

He also believes the widespread implementation of means-tested vouchers would create a new poverty bureaucracy that would exist to perpetuate itself—case workers whose main concern would become maintaining their budgets rather than educating students. If school choice is identified as an anti-poverty program, rather than an initiative for systemic reforms, momentum for structural change may be stifled. Even if inner-city performance improves under a system of vouchers, middle-class parents might not demand similar changes in their schools. "A program for poor people is a poor program," he says.

But the political momentum is solidly behind means-tested proposals. And no wonder: The grim statistics of inner-city schools, says Clint Bolick of the Institute for Justice, are "off the charts." In Milwaukee, 85 percent of students on public assistance don't graduate from high school. In Cleveland, only 7 percent of inner-city students graduate on time; 14 percent are crime victims while on school property. If vouchers improve the educational performance of disadvantaged children, they may help reduce crime and welfare dependency.

So while vouchers may have originated in the ivory tower, many of their most passionate supporters are such community leaders as Democratic state Rep. Polly Williams from Milwaukee, Cleveland school board member Genevieve Mitchell, and Dallas-area Democratic state Rep. Glenn Lewis, who is lining up support for a 1997 voucher bill. How much longer, ask voucher advocates, must inner-city youngsters be condemned to a schooling experience that approaches incarceration? It may take years, if not decades, to generate the necessary broad-based support for a major universal voucher initiative. In the interim, aren't the rewards of rescuing a few thousand kids worth the risks of supporting even flawed means-tested voucher proposals?

The Institute for Justice's Mellor and Bolick are quite clear that they intend no quarrel with the Friedmans. But they eagerly defend means-tested voucher programs in court, arguing that even low-income programs could entice entrepreneurs to create schools that would serve students bearing tuition vouchers. In the interim, vouchers could rescue impoverished students from violence-ridden inner-city schools and break the death-grip of teachers' unions and powerful administrators on public-school governance. "Milton Friedman is right that his [universal] voucher proposal would most completely transform the education market," says Mellor. "But the battles are now in a different arena. The fate of vouchers will be decided in the courts."

Fighting the Unions

Along with Ohio and Wisconsin, Vermont has its own voucher-like program, called "tuitioning." In Vermont, those towns that are too small to finance a public high school let their school-aged children attend private schools; the town's taxpayers pay at least part of the tuition. All three plans have been taken to court by civil-liberties groups and teachers' unions, citing the First Amendment's Establishment Clause to challenge the use of vouchers to subsidize students who want to attend religious schools. The Institute for Justice has represented parents in all

Nationwide more than 100,000 "difficult to educate" students attend private schools at taxpayer expense. This private school in Pasadena, California, teaches former gang members who have learning disabilities or a history of delinquency.

three states, hoping to establish a precedent that would allow any school to accept vouchers. Its rallying cry echoes the advertising slogan of a D.C.-area personal-injury attorney: "If you have a school-choice plan," says IJ, "you have a lawyer." By defending school choice plans, the institute hopes to establish legal precedents that will let all sorts of voucher proposals, universal or means-tested, go forward.

Teachers' unions have been the institute's most obstreperous opponents in court. The 2.2-million-member National Education Association and its state affiliates have thrown time, money, and expertise into opposing every educational reform that would inject competitive pressures into schooling, no matter how minimal. From merit pay to charter schools to measures that would relax teaching certification requirements, the NEA's recalcitrance has earned it the title bestowed by *Forbes* in 1993: the National Extortion Association. In every case the institute has litigated, says Mellor, "the unions' opposition has bordered on hysteria."

In August, the institute's Cleveland case advanced the legal argument for including religious schools. The voucher program there gives 2,000 students vouchers worth $2,250 so they can choose among religious and secular private schools. In a state trial court, Judge Lisa Sadler ruled for the parents, saying vouchers (much like collegiate Pell Grants or scholarships under the G.I. Bill) primarily benefit students rather than schools. The Ohio Court of Appeals refused to overturn Sadler's ruling, making the next battleground the state Supreme Court. Eventually the U.S. Supreme Court, which has made no definitive statement on the constitutionality of tuition vouchers, will decide if religious schools can be included.

School choice advocates consider the inclusion of religious schools crucial. Vouchers would give low-income parents the wherewithal to gain complete control over the upbringing of their children, including the option to take advantage of a religious education. Almost 80 percent of the nation's private schools are religiously based; excluding them from voucher plans would reduce the competitive pressures on public schools. And religious schools are often heavily subsidized by church members, so they can offer much lower tuitions than their secular counterparts.

To date, means-tested voucher programs have been limited to a small number of students in a few cities. Few existing private schools have large numbers of vacancies. If a larger plan went into effect, would it offer enough money to entice new school operators into the education marketplace?

While nothing is certain, the voucher programs now in place would cover tuition costs for most private schools in the country. The National Center for Education Statistics reports that about two-thirds of the nation's private schools charged tuitions of $2,500 or less in the 1993–1994 school year. A March 1996 Cato Institute survey of private-school tuitions by David Boaz and R. Morris Barnett shows that in the four cities surveyed—Indianapolis, San Francisco, Atlanta, and Jersey City—the median private elementary school tuition was between $1,775 (Jersey City) and $3,312 (Atlanta) and the median private high school tuition was between $1,850 (Indianapolis) and $7,200 (San Francisco). Even with vouchers of a relatively modest amount, the Cato authors conclude, "Schools would expand; new schools would be established; some schools might lower their tuition or offer scholarships; new teaching methods would be tested and new technologies employed; and government schools would compete to stay open."

New schools may open. But Friedman is concerned that they would not differ much from the ones already operating—they would certainly not be the pathbreaking institutions that would be created by a new marketplace in commercial schools. Under these circumstances, he fears, a market for commercial "Rolls Royce" schools might never emerge. "Where will the innovations [in education] come from—Rolls Royce schools or McDonald's schools?" he asks.

Mellor and Bolick won't predict what market-based private schools would look like; their goal is to gain legal sanction for the broadest possible application of school choice. Mellor envisions "a dynamic education market in which consumer choices drive the provision of services. We can only speculate on its future shape."

Regulatory Concerns

Over the past quarter century, several opponents of the public-school monopoly have voiced objections to vouchers, fearing that they would lead to additional regulation of private schools. (See sidebar "The Separationists Weigh In," page 34.) Public choice scholar Dwight R. Lee, an economist at the University of Georgia, argues that the political process would inevitably taint any voucher program and allow unions and education bureaucrats to impose new regulations on private schools that accept vouchers. For instance, voucher-accepting schools might have to comply with anti-discrimination laws (a provision in Bob Dole's "opportunity scholarship" proposal), preventing, say, single-sex classrooms or forcing religious schools to separate spiritual instruction from the rest of their curricula.

The Separationists Weigh In

As the debate about vouchers rages between the education establishment and school choice supporters (and between universal vouchers and means-tested programs), a tiny organization based in Fresno, California, is out to stop them on other grounds. The Separation of School & State Alliance opposes any tax-funded steps that try to reform schools at the margins—including vouchers, tuition tax credits, charter schools, or other open-enrollment plans. Founded in 1994 by libertarian activist and former computer salesman Marshall Fritz, it argues that any transitional policy that maintains compulsory funding of education will never lead to fundamental reforms and may indeed threaten the future of independent private schools.

While he says his group's primary goal is to end the government role in schooling, and welcomes voucher proponents as members, Fritz has become personally linked to the anti-voucher movement. A large, gregarious man with an infectious laugh and a ferocious debating style, Fritz tends to be a polarizing figure. Much like the libertarian recruitment organization he founded a decade ago, the Advocates for Self-Government, the Separation Alliance combines sales and motivational-speaking techniques to push radically anti-statist policy prescriptions. Fritz sells audio tapes containing sample speeches showing others how to package his message; he is also circulating a "proclamation" for separation for which he has collected about 1,000 signatures from libertarian activists, home schoolers, and other government-school opponents. His goal is to get 25 million signers, thus indicating the widespread support he believes the separation position can obtain. Think of his approach as introducing the philosophy of Ludwig von Mises on an Anthony Robbins infomercial, with some evangelical religious tracts thrown in.

Among the more prominent anti-voucher separationists are Ludwig von Mises Institute President Llewellyn Rockwell Jr.; longtime libertarian writer and editor Sheldon Richman; syndicated columnist Joseph Sobran; David Henderson, a former staff economist for the Reagan administration's Council of Economic Advisers (and a REASON contributing editor); and National Scholarship Center President Douglas Dewey, a Bush administration Education Department official. Their activities have consisted mostly of writing articles and giving speeches.

Separationists argue that no one has a "right" to an education, especially one coercively funded by taxation. Yet everyone—even the childless—must pay for the education of today's school-aged children. Fritz and his allies say all of the horror stories cited by voucher advocates—low performance, violent classrooms, stultifying bureaucracies—are a direct consequence of mandatory schooling. Compulsory attendance and coercive funding, he says, have allowed parents to shirk their responsibilities. "The issue isn't schools," says Dewey of the National Scholarship Center, a clearinghouse for information on privately funded vouchers, "but families."

Fritz calls public schools "welfare schools," and says vouchers would be nothing more than a new type of welfare for parents who now educate their children privately, paying tuition on top of their tax bills. Those who would entice private-school parents with vouchers, he says, are no better than the anti-poverty advocates who try to convince people who work at menial jobs but qualify for welfare to stop working and sign up for benefits. Once "hooked" on vouchers, says Fritz, parents will be completely dependent on them.

Fritz considers any government program welfare for somebody, since taxation coercively redistributes wealth. For that reason, he rejects the traditional concept of education as a public good, a program that benefits the entire community even if some individuals don't directly participate in it. Those who don't have children must pay school taxes, but they may consider themselves better off if the people in their community are educated. Fritz calls *public good* "a nice term to describe covetousness."

That's a tough argument to win support for. It is possible to imagine an educational marketplace in which all schools receive their funds entirely from tuitions and voluntary contributions—although that's not part of the American tradition. Publicly funded schools have existed in the United States since the days of the Northwest Ordinance, nearly a century before "common schooling" became universal. Most taxpayers, including the childless, believe they benefit from tax-financed schools. So it's likely that some form of taxpayer support for education will remain.

Meanwhile, Dewey, Fritz, and other separationists urge parents to remove their children from the government schools and either home school them or educate them privately. On the political front, they push for tax relief and rolling back or repealing compulsory attendance laws. They also support private vouchers, or "precollege scholarships," to help low-income students leave public schools.

Milton Friedman also supports these efforts wholeheartedly. But he questions whether these small but important steps would be sufficient to create the educational transformation he envisions. The economist openly acknowledges the public choice perils any voucher proposal would face, but otherwise refuses to be drawn into the separationist discussion.

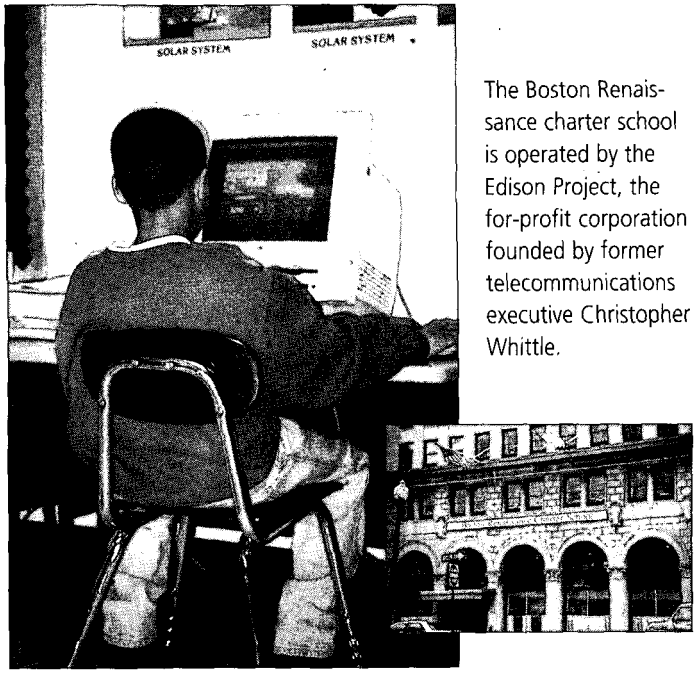
"There is a real and very important debate about vouchers," he says. "It is between those who advocate welfare vouchers and those who favor universal ones."

—R.H.

Lee first made his case in an article for the July 1986 *Freeman.* He considers vouchers "another entitlement program that may be better than the status quo, but only marginally so." In the early stages of a voucher campaign, he thinks "a groundswell of support will develop for the basic idea. Then the details will be taken over by organized interest groups." For example, teachers' unions might insist that only schools hiring certified teachers could receive vouchers or that no teachers could lose their jobs in a district that implements vouchers.

Meanwhile, he says, "the general public will say, 'Good, that's done,' and concern themselves with other things. By that time, the organized interest groups would have taken over the process." Lee uses a surfing analogy. "My fear," he says, "is that long before we get to the beach, [the education establishment] will take charge of this surfboard and will guide it in their own direction."

Friedman knows the danger. To realize his vision, he writes, "it is essential that no conditions be attached to the acceptance of vouchers that interfere with the freedom of private enterprises to experiment, to explore and to innovate." He concedes that the teachers' unions and their allies will be irresistibly tempted to impose new regulations on voucher-accepting schools. "There is no air-tight defense against that," he says. "It is a real and present danger."



The Boston Renaissance charter school is operated by the Edison Project, the for-profit corporation founded by former telecommunications executive Christopher Whittle.

But the public choice perspective could cut both ways. Private schools and their customers form an organized interest group, too, defending schools against new regulations. And they're likely to have statutory help. Proposition 174, the unsuccessful 1993 California universal-voucher initiative, included provisions freezing current school regulations and requiring a supermajority vote by education officials before any new regulations could be added. Several states that permit charter schools have similarly imposed a regulatory freeze or even exempted charter schools from many regulations.

Additionally, voucher programs will be implemented and administered by local or state officials, one jurisdiction at a time. It will take years, if not decades, for vouchers to spread across the country. If regulators in one location overreach, watchdogs in other areas can alert local private school supporters. And public interest groups like the Institute for Justice would eagerly contest any new regulatory burdens that may be imposed. Clint Bolick pledges that the institute would dash to the courthouse door to sue any educational officials who try to circumvent these regulatory freezes. Eternal vigilance is the price of liberty.

If you doubt the effectiveness of the feedback loops that exist among independent schoolers, recall the 1993 federal education bill. A provision that could have forced all teachers to obtain government certification—including those parents who home school their children—caused an immediate uproar. Advocates of home schooling tied up Capitol Hill switchboards with hundreds of thousands of phone calls. Within a matter of days, a bill that normally would have sailed through the House on a voice vote lost, 424 to 1.

Political Obstacles and Opportunities

As voucher advocates and opponents debate and litigate, vouchers continue to face major political obstacles. California's Proposition 174, which the Friedmans endorsed, would have provided vouchers valued at $2,600 (about one-third the state's per-pupil expenditure) to students who left public schools and attended private schools. The initiative lost by a 70–30 margin. Its major opponents—aside from teachers' union activists—were suburban parents. Subsequent attempts to qualify less-stringent voucher initiatives on the Golden State's ballot have failed. Similar initiatives in Oregon and Washington lost, as did school choice legislation in Pennsylvania.

This should not be surprising. As then–Manhattan Institute analyst John Miller pointed out in a 1993 *Wall Street Journal* column, the political constituency for school choice appears limited to free market and religious ideologues, the inner-city poor, and people who are already educating their children privately. Suburban parents, who cast more votes than all of these groups combined, have treated vouchers with indifference or hostility.

Suburbanites lack sympathy for several reasons: Many consider the quality of local schools one of the primary factors in deciding where they will live—in many cases paying more for real estate to get better schools. These suburban communities often have few public services other than schools, so they see their property taxes (and real-estate prices) as de facto tuitions; they don't want poor kids whose parents haven't paid those taxes to enroll in their schools for "free." And there may be racially charged motivations at play. For whatever reason, suburbanites seem to prefer pressuring school-board members, administrators, and teachers to get results rather than embracing such procedural reforms as school choice.

In addition, notes Janet Beales, until recently an education-policy analyst with the Reason Foundation, there are cultural obstacles to overcome. Tens of thousands of public-school teachers are doing a wonderful job; hundreds of thousands of par-

This specialized private school for children with learning and behavior disabilities is under contract with several New Jersey school districts.

ents and students have a terrific relationship with them. That's a big reason there's little groundswell outside the inner cities for such sweeping reforms as vouchers.

Even though performance levels in the government schools continue to plummet, there has been no massive flight to private schools, except in those urban areas with tax-funded vouchers or private scholarship programs. About 88 percent of students attend public schools, a figure that has changed little in decades. Dwight Lee says that when he wrote his 1986 *Freeman* article, "I thought by now maybe 25 percent [of students] would be in private schools. The numbers have stayed pretty much the same."

Are Vouchers Necessary?

Vouchers may not win often at the ballot box or in the state legislature. To date, only 4,000 students in two cities receive means-tested vouchers, and a few hundred students in Vermont attend private schools at taxpayer expense. But vouchers may be as useful as a threat to the education establishment as they'd be as a full-blown policy. The process of publicizing the failures of the school monopoly—and of offering a tested alternative—seems to be forcing unions and their establishment allies to grudgingly give ground and accept less-sweeping reforms. Consider:

■ Milwaukee gets a lot of attention because nearly 2,000 low-income students there are getting tuition vouchers. But Clint Bolick points out that there's little controversy over the city's decision to pay the private-school tuitions of almost 3,000 difficult-to-educate students—more than in the controversial voucher program.

Milwaukee is not alone. In a policy study published in August, the Reason Foundation's Beales reported that more than 100,000 difficult-to-educate students obtain public money to attend private schools. At least 17 states provide tax funding to educate "at risk" students privately. "Where public schools lack specialization," writes Beales, "they have invited private providers to educate special-needs students."

■ Last year the Houston Independent School District had about 3,000 students who couldn't attend their neighborhood schools because of overcrowding. The district moved these "capped" students to public schools that had openings. This year the number of capped students exceeds 6,000. Just before the school year started, Superintendent Rod Paige proposed "contracting" the tuitions of those students to private schools. Initially, the tuitions of only about 100 students were privately contracted. In January, however, if private secular schools can provide enough openings, all 6,300 capped students could be educated privately.

■ Public schools are privately contracting dozens of services, from janitorial and food services to classroom teaching. Educational Alternatives Inc. (EAI) has had rocky experiences in its attempts to operate schools in Hartford, Connecticut, and Baltimore, primarily as a consequence of political and union meddling. But Chris Whittle's Edison Project, which originally intended to open commercial private schools, is operating public schools in four states and has applied to open charter schools in several others. The American Association of Educators in Private Practice, a trade association for freelance, or "private practice," teachers, has hundreds of members, ranging from individual teachers who might teach a single foreign-language class in several schools to corporations like EAI.

Voyager Expanded Learning operates after-school programs that teach art, economics, and science in 150 public schools nationwide. While these are after-school programs for which parents pay enrollment fees, Voyager provides a substantive curriculum, unlike traditional day care. It hopes to offer instruction programs during the school day starting next school year.

■ Since beginning in Minnesota five years ago, charter schools have spread to more than two dozen states. Charter school advocates talk about "weak" state systems—in which the schools are barely indistinguishable from the "magnet" schools set up in the 1980s—and "strong" systems. Like the one in Arizona.

Charter schools started operating in the Grand Canyon State last academic year. There is no limit on how many schools can locate in a school district. Any government body, private organization, or individual can apply for a charter; the schools have a blanket waiver from most state regulations; charter school teachers don't have to be certified; and the application for a charter takes up only one page. Forty-six charter schools opened in the fall of 1995; by last fall, that number had more than doubled, with additional applications pending for other schools. Around 15,000 students—about 2 percent of those who attend schools—are enrolled in charter programs.

Arizona easily has the most dynamic charter school system. A Hudson Institute survey of seven states with charter schools notes that in several locations, the education establishment has been able to hamstring the embryonic movement with regulations. For instance, some states place an absolute ceiling on the number of schools that can operate: 25 in Massachusetts, 40 in Minnesota, 60 in Colorado.

The Hudson study, co-authored by Checker Finn, found that charter schools did indeed introduce competitive forces into the education marketplace. Charter schools also encouraged much

more parental involvement than traditional public schools. The study concluded that, despite facing differing regulatory burdens, "genuine educational innovation is occurring in charter schools," and "charter schools serve the public more like the voluntary institutions of 'civil society' than like conventional public schools."

Many of the sorts of innovations voucher advocates envision —especially those that go beyond traditional classroom settings—are already in place in some charter schools. In Perris, California, for instance, the charter school Choice 2000 On-line is a computer bulletin board offering instructional tools and software by fax and modem to 130 middle and high school students and adults. The City on a Hill Charter School in Boston teaches a college prep curriculum to 65 ninth- and 10th-grade students. The school, which is located in a YMCA, exposes its students to the arts by working with the Boston Symphony Orchestra and the Boston Ballet. Livingston Technical Academy, located near Detroit, offers 100 11th and 12th graders a basic academic program along with technical training and 10-week apprenticeships.

Vouchers may be as useful as a threat to the education establishment as they'd be as a full-blown policy. Publicizing the failures of the school monopoly seems to be forcing unions and their establishment allies to grudgingly give ground and accept less-sweeping reforms.

It's possible that, as more states consider strong charter school laws, they could have much of the same impact as vouchers on conventional public schools. Consider Seattle, where one-third of the parents educate their children privately. Retired Army Major General John Stanford, the school superintendent, has tried to ease the union's hegemony over school management since being appointed in September 1995. One idea: Require principals to compete for teachers and give them the flexibility to contract for security, maintenance, and food service. This would require rewriting the union's contract with the school district. Negotiations have been tense.

One thing initially helping Stanford, however, was Initiative 177, a charter school initiative on the state ballot. Even though Stanford's employer, the Seattle school board, opposed 177, Stanford told *Forbes*, "It can be an effective tool. That's why you don't see me speaking out against it." Last summer, when the initiative appeared likely to pass, Stanford was able to get the union to agree to no more than a one-year extension of their existing contract. Had 177 passed, he would have had a lot of leverage to implement his vision of "principals as CEOs." But thanks to lots of money and "volunteers" provided by the NEA, Initiative 177 lost, 37 percent to 63 percent. The establishment can temporarily breathe a bit easier.

Changing the Culture

Aside from their instrumental value, charter schools also have a cultural impact. Says Martin Morse Wooster, author of the history of high schools *Angry Classrooms, Vacant Minds*, "School choice will only succeed when parents have schools to choose from." If charter schools indeed develop independent identities, they will let typical parents realize that every public school doesn't have to be the same. After all, despite the existence of FedEx, faxes, and e-mail, the U.S. Postal Service still delivers about 170 billion pieces of mail a year. Sure, the post office guarantees part of its volume because it retains a monopoly on some classes of mail. But much of its continuing appeal is little more than habit, tradition, and convenience. For most parents, sending their kids to the neighborhood government school is as natural as dropping a note in the nearest mailbox.

If charter schools become more widespread, however, new habits and traditions could develop. Over time, perhaps a generation or so, families might get accustomed to sending their children to tax-funded schools that specialize in the arts, vocational training, or in a more traditional curriculum. When specialty public schools become the norm, entrepreneurial education might not seem so foreign.

And Beales points out that a "strong" charter school law very closely resembles a Friedman-style universal voucher proposal, with two exceptions: No state lets charter schools charge tuitions (precluding Friedman's "Rolls Royce" schools), and religious organizations cannot sponsor charter schools. Even so, since charter schools can receive as much as the per-pupil expenditure, or twice the amount per student the Friedmans would recommend for vouchers, a charter school might be able to offer some of those "Rolls Royce" features. It's possible the Edison Project, or such critics of monopoly schooling as Steven Jobs, will use charter schools to create innovative commercial educational institutions.

Charter schools may not be the silver bullet that slays the school-monopoly beast. But before market-oriented education can win in the political arena, it has to appear sufficiently nonthreatening to PTA members, the Rotary Club, and the president of the local Chamber of Commerce. That victory must be won culturally. Changing the culture takes time.

While school choice supporters hope for a Berlin Wall–like event that will sweep aside compulsory schooling, most concede it may take a generation to change attitudes about public schools. While radical reformers push to change parents' minds, the structure of public schools will continue to change, thanks to such marginal reforms as private management, private education of difficult-to-educate students, the "contracting" of tuitions in overcrowded districts, private-practice teaching, and charter schools.

A generation from now, attitudes about the role of public schools may have changed. And by then, there may already be a vibrant market of entrepreneurial schools in place.

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Mandatory Schooling: A Teacher's Eye View

I teach ninth- and 10th-grade English at a large high school in a New Jersey township about 45 minutes outside of Philadelphia. In most ways, I'm in a pretty enviable position: The school district is growing rapidly; it's more or less flush with cash; the area is solidly middle- to upper-middle-class and, while ethnically diverse, generally free of racial tensions.

Even given those circumstances, though, my school does have problems—the problems that are left over in any classroom once you strip away more-obvious distractions like violent crime or lack of teaching resources. My school, like all public schools, has a small percentage—in my experience, as small as 1 or 2 percent—of uninterested, apathetic, troublesome students who disrupt the learning process for the rest of the student body. The bad eggs are there, every year and in every class, making life miserable for teachers and students alike.

Over a 10-year teaching career, I've wondered about why they are there and what you can do about them. I've come to the conclusion that the problem ultimately stems from compulsory schooling laws. Or, to put it a little differently, many of the problems in public-school classrooms—especially at the high school level—would disappear if attendance were voluntary.

I realize that this sounds so nuts that I'm reluctant to use my own name. (I also don't have any interest in getting my fellow teachers—or my union—mad at me.) Although my colleagues constantly complain about trouble-making students, most of them would never seriously consider questioning, let alone gutting, compulsory school laws. In New Jersey, students can sign themselves out of high school at age 18; with their parents' permission, they can leave two years before that. I don't know that I'm 100 percent against mandatory schooling—especially through at least eighth grade—but I think it's worth pursuing alternatives. The system would work better if teenagers with no interest in school were allowed—or even encouraged—to bug out earlier still.

Last year, I had an experience that brought home the difference between compulsory and voluntary attendance. During the school year, I had a marginal student I'll call Kevin. On those occasions when he handed in assignments, they were almost always below passing. In fact, most of the time he did absolutely nothing in class, often forgetting his books, notebooks, pens, etc. But at least he was *quietly* nonproductive. There was a group of actively disruptive students in the class with whom I spent most of my time dealing—getting them to shut up, sending them to the vice principal's office, that sort of thing. So Kevin was something of a reprieve. At least he didn't take anybody else down as he failed the class.

That summer, I taught a voluntary class designed to boost basic skills—writing, reading, critical thinking—for remedial students. The kids (no doubt encouraged by their parents) had to choose to give up some of their summer vacation to take the class. Kevin was among the students and, to my great surprise, he did all sorts of work for me. He participated actively in class discussions, and his take-home work was much better, too. Free of the need to constantly discipline cut-ups and worse, I was able to focus on marginal students like Kevin who would respond to more attention.

The class was, in general, free of the petty distractions that crop up during the school year. You always have to work to engage the students—that's teaching—but I didn't have to put up with anyone who didn't want to be there. There were times when the kids didn't want to work, but I could always trump them with a simple question: "Then why did you sign up for this?"

That kind of rhetorical question falls flat during the school year because my students have a ready answer: "I didn't ask to be here. I *have* to be here."

With most students, you can always hold their grades over their heads: If you don't listen up, if you don't do your work, I tell them, you're going to have to go to summer school. Or, even worse, you're going to have to repeat the class during the next school year. I should stress that it takes a lot for a student to fail a class: Essentially, they have to do no work and put forth no good-faith effort during the school year. Kids clearly differ in background, raw intelligence, and skill levels, but if they work at it, they can earn a passing grade in my class. In my experience, I have encountered virtually no students who did not have the ability to squeak out a passing grade.

In my school, if a student's final grade is between 60 and 69 out of 100, he can take a six-week summer course to make up the difference and earn a passing grade. If the grade is 59 or below, though, the student has to retake the class during the next academic year. Those two possibilities usually bring kids into line.

But they don't work with a kid who is mathematically eliminated not only from passing the course but even getting into summer school—a fate sometimes decided even before the middle of a marking period. Once that happens, you have no way of reeling him in.

And you normally can't kick him out of the class. School administrators want to keep that kid in the classroom because

they say whatever he gleans might help him next year when he takes the class again. But that isn't what happens. For short periods of time, you can remove him from the class—which takes time and energy—and place him in what's called the "restriction room," a sort of detention hall held during regular school hours. But you still have to make assignments for him and follow up on those, both of which take time away from actively working students. And when he comes back to the class, he is usually just as disruptive, and likely to drag marginal students down to his level.

If he's a good kid, he sits there writing letters to his girlfriend or quietly dozes off without putting his head on his desk or calling attention to himself. Of course, even though that's not as disruptive as talking, laughing, shouting, or fighting, it's not a particularly good example to have a kid lounging around the classroom. The third option is that the kid becomes a sort of class idiot who performs a kids-don't-let-this-happen-to-you function. I had one student like that who, every time I announced an assignment, would volunteer loudly to complete it. The class would laugh at him because they knew both that he wouldn't and that it couldn't change his fate anyhow. It is, to put it mildly, disturbing to see a high school student drawing his only identity from being a fool to his peers.

It would make much more sense to put failing students in a study hall where they could work on the classes they have some chance of passing (in my experience, they're usually flunking at least two or three of their classes). And, in a larger sense, it would make much more sense to put kids who show little or no interest in school out into the real world.

There, at least, they could ponder their choices without draining time and resources from other kids who want to learn. Teachers would have more time to teach, and principals would have the opportunity to meet responsible students instead of dealing with the same problem kids over and over. I'm sure some of the dropouts would do well in the work world, especially those who got into a trade that emphasized experience over book learning. I'm equally sure that others would come back to school with their attitudes adjusted.

So what would a voluntary school look like? The major objection to such a plan is that, given a choice, few kids would choose to school themselves. Given my experience, though, I don't think that's right. Most kids, in fact, recognize that they need to learn, that they *like* going to school (if only because their friends are there), and that they'd be willing to work if it was demanded of them.

Sometimes when I proctor our restriction room, I ask the kids why they bother showing up for school. These are, remember, students who are doing no work and following few rules.

"What do you mean?" they inevitably reply. "You gotta go to school."

"Well, you do and you don't," I say. "If you're 16, why don't you get your parents to sign you out?"

"My parents won't let me drop out," they say.

"That's because your parents think you are working. But you're here in this room because you're not doing anything except cutting up. Why aren't you working?"

"I dunno."

"So you're just going to fail?"

"Yeah."

"So we're back to my original question: Why are you here?"

"This is where my friends are. It's air-conditioned. It beats working."

"Suppose you had a job and told your boss, 'I'm not going to do any more work. You don't have to pay me, but I'm just going to hang out because I like the atmosphere here.' Then you start bothering the other workers so they can't get their work done. What do you think the boss would do?" I ask.

"Kick me the hell out."

"Now suppose that he said you could come back if you did some work—and you really, really liked hanging out there. Would you do some work so you could stay there?"

"Probably."

You always need to be careful about taking students at face value, but I've had similar conversations with all sorts of kids. I have, for instance, asked my regular freshman and sophomore English classes, "If you didn't have to, would you take this class?"

"No," they respond.

When I say, "Oh, really?" and arch my eyebrows, they always backpedal.

"Well," they say, "not every day. English is important. You have to know how to read and write, but you don't have to have English every day."

"Suppose," I say, "the system were different. Suppose that I would teach an English lesson each Monday, every hour on the hour. You wouldn't have to come, but you could drop by if you wanted to. On Tuesday, I would teach another lesson, one that built on Monday's lesson. And Wednesday's lesson would be based on Tuesday's, etc. What would happen then?"

My students quickly realize the jig is up, that they would be showing up whether or not they were required to. Compulsory education laws obscure the fact that most students would choose to be in school anyway—and that choice is a major motivator in learning. Perhaps more important, in the end, such laws make willing students pay the freight on unwilling ones. And those charges are pretty steep.

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Looking for Results

Nobel laureate Ronald Coase on rights, resources, and regulation

PHOTOS: BOBBY LAW

When Ronald Coase was awarded the Nobel prize for economics in 1991, many in the profession were stunned. No one could remember a single equation, an estimated parameter, a correlation coefficient—nary a Greek symbol—in any of his articles. How could this poseur—a man who had taught economics at the University of Chicago *Law* School—properly lay claim to that esteemed title?

It was not the first time in his life that Ronald Coase had surprised people. Born in England in 1910, Coase wore leg braces as a youngster and was placed in a school for "physical defectives." It was run by the same organization, Coase remembers, that ran the school for "mental defectives," and there was "some overlapping in the curriculum." Coase found himself in (literally) basket-weaving classes, and received virtually no academics until the age of 10.

Even at the London School of Economics, Coase was pretty much on his own. He took only business and accounting—no economics—until a seminar with Professor Arnold Plant in his senior year. The course—no readings—featured a robust discussion of the invisible hand.

Interviewed by Thomas W. Hazlett

Coase, then a socialist, grasped as seminal the idea of spontaneous coordination in the marketplace, and his career as a creative and provocative economic thinker was born.

Again, in a most unusual way. He trekked to America in the early 1930s on a scholarship, and wandered about the industrial heartland researching the methods of business firms. Coase's scientific methodology? He asked businessmen why they did what they did. One key question, for instance, involved why firms chose to produce some of their own inputs (vertical integration), and why they sometimes chose to use the market (buying from independent suppliers). He was fascinated by their answers, but even more by their astute calculation: Firm managers were keenly aware of all the relevant trade-offs. In 1937, Coase published his article "The Nature of the Firm," explaining the basic economics of the business enterprise. It became one of the most influential works in the history of the dismal science, outlining the subtle logic of how firms pursue efficiency in a complicated world. The approach was vastly more sophisticated than the ones in vogue in America in the 1930s, which posited that the corporation was simply an accident waiting to self-destruct.

Again, in 1960, Coase rearranged the study of economics with his essay "The Problem of Social Cost." It analyzed what happens when economic actions affect third parties—say, for instance, when a railroad dumps pollution on a farmer's crops. Before Coase, economic analysis maintained that decentralized decision making—the market—in such cases would predictably fail to achieve an optimal solution, because self-interested actors (say, the railroad owners) would fail to take into account the harm imposed on others. That idea had widespread implications for the economy and provided intellectual justification for a wide range of government interventions.

Coase, whose 1959 article on the Federal Communications Commission had led him to realize how property rights could be used to manage the airwaves, saw something different: The problem actually lay in an improper definition of legal rights. He noted that once property was well-defined and easily tradable, the efficient solution would follow. Ironically, the optimal social outcome would obtain no matter who owned the property. For instance, even if the railroad possessed the right to pollute, the farmer could pay it not to. Indeed, the farmer (really the farmer's customers) *would* pay whenever the benefit from mitigating pollution exceeded the cost created by pollution. Hence, whenever someone clearly possessed the right to pollute: Voilà! Social efficiency! This became famously known as the Coase Theorem.

What was perhaps Ronald Coase's most important contribution to economic understanding, however, was not as an author. As editor of *The Journal of Law and Economics* from 1964 to 1982, Coase exercised a huge effect over the sort of topics that economists chose to investigate. Located at the University of Chicago Law School, the journal is written by and for economists, but economists working in areas that were recently the sole purview of lawyers and policy makers. The *JLE* under Coase was relentlessly relevant, dedicated to exploring the actual effects of actual policies. This paddled against the flow of virtually the entire profession, which was drifting to increasing abstraction and formalism. Due to its rigorous analytic standards, as well as to the demand for a reality check on the theories of economic scribblers, the *Journal* led its own paradigm shift in the social sciences. The ultimate success of this bold approach is today apparent, as its pages are cluttered with the writings of many of the Nobel laureates in economics. Just another Coasian demonstration, one might say, that the market works.

Reason: Could you state the Coase Theorem? How do you explain it to people?

Ronald Coase: It deals with questions of liability. Whether someone is liable or not liable for damages that he creates, in a regime of zero transaction costs, the result would be the same. Now, you can expand that to say that it doesn't matter who owns what; in a private enterprise system, the same results would occur.

Take the case of a newly discovered cave. I say, whether the law says it's owned by the person where the mouth of the cave is or whether it belongs to the man who discovers it or whether it belongs to the man under whose land it is, it'll be used for growing mushrooms, storing bank records, or as a gas reservoir according to which of these uses produces the most value. The law of property determines who owns something, but the market determines how it will be used. It's so obvious to me that I couldn't understand the fuss. All it says is that the people will use resources in the way that produces the most value, that's all. I still think it's an obvious point. You wouldn't think there was a need for a Coase Theorem, really.

But the people at the University of Chicago thought it was an error. Some people thought I should delete this section from my article on the FCC. The person who most desired this was Reuben Kessel, who was a very good economist, but he was supported by Aaron Director and George Stigler and others at the University of Chicago. I replied that if it was an error, it was a very interesting error and I would just as soon it stayed in. And it did stay in.

Then George Stigler invited me to do something at a workshop in Chicago and I presented something on another topic. I said I'd like to have an opportunity to discuss my error. Aaron Director arranged a meeting at his home. Director was there, Milton Friedman was there, George Stigler was there, Arnold Harberger was there, John McGee was there—all the big shots of Chicago were there, and they came to set me right. They liked me, but they thought I was wrong. I expounded my views and then they questioned me and questioned me. Milton was the person who did most of the questioning and others took part. I remember at one stage, Harberger saying, "Well, if you can't say that the marginal cost schedule changes when there's a change in liability, he can run right through." What he meant was that, if this was so, there was no way of stopping me from reaching my conclusions. And of course that was right. I said, "What is the cost schedule *if a person* is liable, and what is the cost schedule if he isn't liable for damage?" It's the same. The opportunity cost doesn't shift.

There were a lot of other points too, but the decisive thing

"People don't pollute because they like polluting. They do it because it's a cheaper way of producing something else. The cheaper way of producing something else is the good; the loss in value that you get from the pollution is the bad."

was that this schedule didn't change. They thought if someone was liable it would be different than if he weren't. This meeting was very grueling for me. I don't know whether you've had a conversation with Milton Friedman, but an argument with Milton Friedman is a pretty strenuous affair. He's very good. He's very fair, but he doesn't let you slip up on anything. You're constantly being pressed. But when at the end of whatever the time was—say, an hour—I found I was still standing, I knew I'd won. Because if Milton can't knock you out in a few rounds, you're home.

Reason: The place the Coase Theorem comes into play most often is when talking about pollution. The pollution problem has been seen in a very different light because of the Coase Theorem.

Coase: It should be seen in a different light, but I don't see why you needed the Coase Theorem to do it. The pollution problem is always seen as someone who was doing something bad that has to be stopped. To me, pollution is doing something bad and good. People don't pollute because they like polluting. They do it because it's a cheaper way of producing something else. The cheaper way of producing something else is the good; the loss in value that you get from the pollution is the bad. You've got to compare the two. That's the way to look at it. It isn't the way that people today look at it. They think zero pollution is the best situation.

Reason: The basic idea behind the Coase Theorem is that the market is efficient, that consumers are going to direct the resources to where these resources yield the highest value.

Coase: Roughly speaking, when you are dealing with business firms operating in a competitive system, you can assume that they're going to act rationally. Why? Because someone in a firm who buys things at $10 and sells them for $8.00 isn't going to last very long in that firm. I think that the market imposes a great discipline, and the discipline of the market makes the assumption of rationality in that field correct.

I find that people behave in ways that destroy themselves and their families, produce a lot of hardship, and when it comes to policy do the same thing. I hold the view of Frank Knight: In certain areas rationality is enforced; in other areas it's weakly enforced. You get more irrationality within the family and in consumer behavior than you get, say, in the behavior of firms in their purchases.

Reason: Now, this is a very un-Chicago view. You must've had some arguments with George Stigler or Gary Becker or Richard Posner at some point about this view. They think people are rational in their marriage, their honesty, or their sex life, or in crime and all those social contexts that Gary Becker writes about.

Coase: Oh yes. When you say it is un-Chicago, you mean that it is an unmodern Chicago view. Because Frank Knight was at Chicago, and I was brought up more on Knight than I was on any of the others. And my views were quite consistent with what he says. They're not consistent with what George Stigler, Gary Becker, and Richard Posner say. Posner condemns me because I don't think people maximize utility.

Reason: So you don't think if we doubled the penalty for crime, we'd see less crime?

Coase: Oh, I do. I don't say people are wholly irrational. I have said that almost the only thing we can say about consumer behavior is, if you raise the price of something, people will demand less. And that we know, but it doesn't follow that because a person does less foolishness when the price is high for foolishness that you don't have foolishness. The foolishness follows the universal law of demand. The greater the price you have to pay for being foolish, the less you do.

Reason: Though you are now known as a leading free market economist, you started your intellectual career as a socialist. Why and when did your political views change?

Coase: They changed gradually. What was most important was the work I did on the economics of public utilities at the London School of Economics. I studied the results of municipal operation of utilities and the effects of nationalization, particularly in the post office. This led to grave doubts about nationalization. It didn't produce the results people said it did. My views have always been driven by factual investigations. I've never started off—this is perhaps why I'm not a libertarian—with the idea that a human being has certain rights. I ask, "What are the rights which produce certain results?" I'm thinking in terms of production, the lives of people, standard of living, and so on. It has always been a factual business with me. I discovered that municipal operation didn't work as well as people said it would, and nationalization did not either.

Reason: You said you're not a libertarian. What do you consider your politics to be?

Coase: I really don't know. I don't reject any policy with-

out considering what its results are. If someone says there's going to be regulation, I don't say that regulation will be bad. Let's see. What we discover is that most regulation does produce, or has produced in recent times, a worse result. But I wouldn't like to say that all regulation would have this effect because one can think of circumstances in which it doesn't.

Reason: Can you give us an example of what you consider to be a good regulation and then an example of what you consider to be a not-so-good regulation?

Coase: This is a very interesting question because one can't give an answer to it. When I was editor of *The Journal of Law and Economics*, we published a whole series of studies of regulation and its effects. Almost all the studies—perhaps all the studies—suggested that the results of regulation had been bad, that the prices were higher, that the product was worse adapted to the needs of consumers, than it otherwise would have been. I was not willing to accept the view that all regulation was bound to produce these results. Therefore, what was my explanation for the results we had? I argued that the most probable explanation was that the government now operates on such a massive scale that it had reached the stage of what economists call negative marginal returns. Anything additional it does, it messes up. But that doesn't mean that if we reduce the size of government considerably, we wouldn't find then that there were some activities it did well. Until we reduce the size of government, we won't know what they are.

Reason: What's an example of bad regulation?

Coase: I can't remember one that's good. Regulation of transport, regulation of agriculture—agriculture is *a*, zoning is *z*. You know, you go from a to z, they are all bad. There were so many studies, and the result was quite universal: The effects were bad.

Reason: What was the idea of *The Journal of Law and Economics*?

Coase: I wanted to find out what the effects of regulation actually are, to make factual studies so that we didn't have all these general discussions. I wanted to find out what effect different legal rules had on the economic system.

Reason: Isn't it shocking that economists didn't spend more time doing this kind of work before 1964?

Coase: Well, I'm not that easily shocked. Economics has been becoming more and more abstract, less and less related to what goes on in the real world. In fact, economists have devoted themselves to studying imaginary systems, and they don't distinguish between the imaginary system and the real world. That's what modern economics has been and continues to be. All the prestige goes to people who produce the most abstract results about an economic system that doesn't exist.

Reason: You began teaching at the University of Virginia in the late 1950s, and by the early 1960s the administration there was not impressed with the work being done by yourself, Warren Nutter, James Buchanan, Gordon Tullock—four of the most famous and influential economists in the postwar era, two of whom [Coase and Buchanan] went on to win Nobel prizes. Yet the University of Virginia was not happy with what was happening in their economics department.

Coase: They thought the work we were doing was disreputable. They thought of us as right-wing extremists. My wife was at a cocktail party and heard me described as someone to the right of the John Birch Society. There was a great antagonism in the '50s and '60s to anyone who saw any advantage in a market system or in a nonregulated or relatively economically free system.

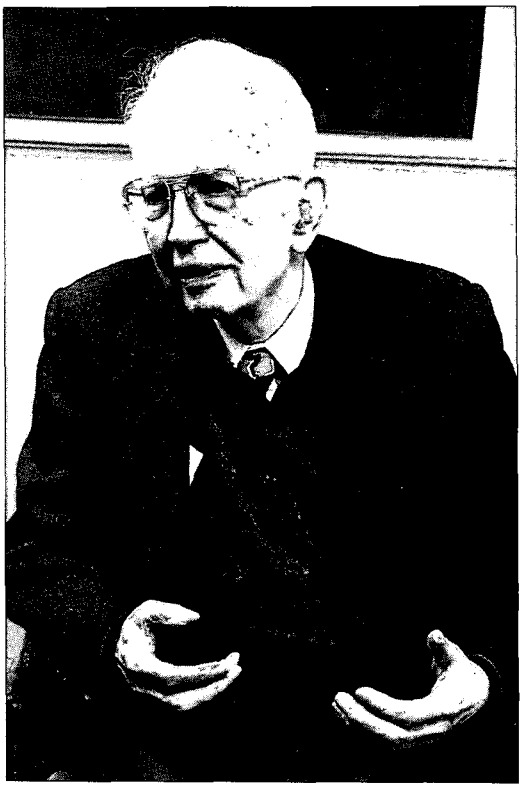
Reason: In 1991, you won the Nobel prize in economics. How has that changed your life?

Coase: It has made it very difficult. Now it takes me a day a week just to read my correspondence, longer to reply to things. It's a great burden, this Nobel prize. I get letters from all over the world. People writing, sending materials they've written, wanting comments on it. But what do you do? You reply when you have a special obligation—you know the person or the person has done something for you. Businessmen, scholars, journalists, students—all write me. Occasionally I get letters from people who argue that they can prove that the Coase Theorem is wrong because the Earth is going to end on the year 2003— which, I might say, is an actual case. He's found the error in the Coase Theorem.

Reason: You're a man who likes to look at the facts, so it's going to take us another few years to check out his theory.

You don't wish that you had gotten the Nobel prize any earlier?

"The University of Virginia thought the work we were doing was disreputable. They thought of us as right-wing extremists. My wife was at a cocktail party and heard me described as someone to the right of the John Birch Society. There was a great antagonism in the '50s and '60s to anyone who saw any advantage in a market system or in a nonregulated or relatively economically free system."



Coase: Oh yes I do, because I could have handled this situation much better. At my age it's very difficult. I get invitations to go all over the place. I largely refuse them. But if I were younger and more energetic and so on, I would handle these things better. I would have done more. Getting it so late means that I have very little time left, even though a lot of research is now going on influenced by the fact that I got the Nobel prize. It encourages other people working in the field. A lot more work, I think, is now going on because the field has been recognized, and I want to take part in it, and I don't have very long to do it.

Reason: What led you to study the Federal Communications Commission?

Coase: It started with my study of public utilities in Britain. I studied the British Broadcasting Corporation and how it developed and its policies, and I wrote a book called *British Broadcasting: A Study in Monopoly* [1950]. I explained how it came to be a monopoly, how it was justified, what were its results. It came to be a monopoly because—and this is rather strange—the telegraphs had been nationalized under the post office. A telegram was defined as a message conveyed by electricity. So broadcasting was considered a telegram. Therefore, the powers to control broadcasting lay with the post office. They were very anxious to have a monopoly of broadcasting. People in some of the firms in the industry wanted it, and people who had visited America and heard about the chaos in broadcasting there decided the only thing that you could do to get rid of all this chaos was to have a monopoly.

I showed that all the arguments for a monopoly were invalid. But it was established, and then it was justified far more by the idea that you needed a monopoly in order to control programming, because competition would result in people producing programs which, although perhaps popular, should not be broadcast because they were bad for people.

Reason: So, you studied the BBC and then you came to the United States and began also taking a keen interest in the FCC.

Coase: Yes, that was really a continuation of my work on broadcasting. Having studied what happened in Britain, I was carrying out a study called *Political Economy of Broadcasting.* My study of the FCC was a natural result of doing this.

Reason: What were you surprised by when you studied the Federal Communications Commission?

Coase: I don't know that surprise is the right word. I looked to see what happened, and I discovered that the FCC was extremely inefficient, that the choices it made could not easily be justified, that a lot of the activities in which it engaged [were] an absolute charade. I was a little doubtful about pure markets for the use of the radio frequency spectrum at first, because there are a lot of things that we can imagine for which we can't have markets because the transaction costs are too high. I thought that perhaps the transaction costs were too high in this case. But then I discovered from the early history of broadcasting that property rights were being established, and it struck me that left alone they could have solved the problem with [signal] interference, which was the main problem they talked about. The period of broadcasting chaos arose because people didn't have well-defined property rights. So I saw no difficulty in bringing about a market in this area.

Reason: Were you ever interested in Hayek's thesis about the road to serfdom?

Coase: I read the book, of course. I knew Hayek and I knew the British response to it. In Britain it was a success, but much less than in the United States, because the general thesis was that socialism would inevitably lead to a totalitarian society, totalitarian state, or suppression of freedoms in other areas. In Britain, living in what is a very tolerant society, few people could imagine that this was going to be the result. I remember Lionel Robbins saying to me this is a very fine book from the continental point of view. It just wasn't British. Once, after I'd come to America, when visiting England I ran into someone I knew. We chatted a few minutes in a very civilized way (he had been a student of mine), and he went on and I went on. This person was a prominent member of the British Communist Party. I'd never imagined that he would have

"Gathering information is one of the difficulties when you're in a market. What is being produced, what are the prices of what is being offered? You've got to learn all these things. You can learn them now a good deal more easily than you could have done before; you don't have to search. If you've ever tried to buy anything, you know how much time goes into finding out what's available and all the alternatives."

sent me to a Gulag. You know, if the communists had come to power, life would have been much worse. But that these sort of horrors would happen in England....

Reason: Well, the Russians were obviously more serious about their socialism. And in fact, they got much more severe decay of the economic system.

Coase: They got much nearer to serfdom, but the thing that stopped the system was not the fact that human liberties were trodden on, but that they didn't produce. It was a failed economic system.

Reason: How surprised were you by the collapse of the Soviet Union?

Coase: Very surprised. Nothing I'd read or known suggested that the collapse was going to occur.

Reason: What can you tell us about lighthouses?

Coase: Economists had always used this as a service that had to be provided by government. How could a private provider ever be paid for it? So without government operation you wouldn't get lighthouses. My usual practice is to look into what actually happens, and if you look into what actually happens you discover that there's a long period in which lighthouses were provided by private enterprise. They were financed by private people, they were built by private people, they were operated by the people who had the rights to the lighthouses, which they could bequeath to others and sell.

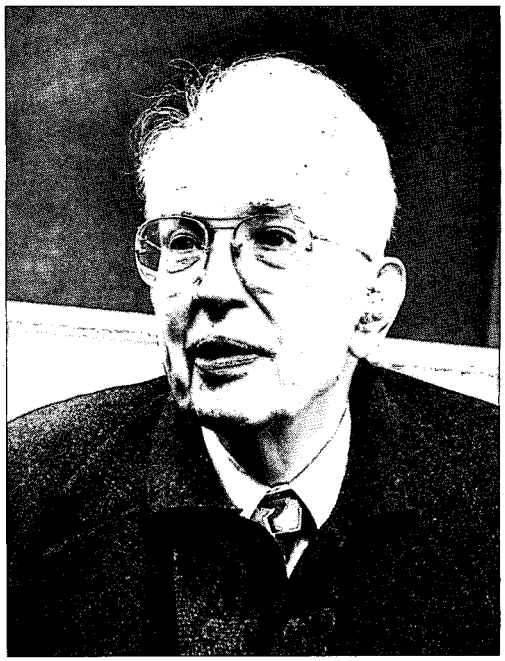
Some have said what happened in lighthouses wasn't really private enterprise. The government was involved in some way in setting the rights and so on. I think that's humbug because you could say that there's no private property in houses by that logic, since you can't transfer your rights to a house without the examination of title and registration and without obeying a whole series of regulations, many enforced by government.

Reason: I thought it was interesting that the shippers were the ones that lobbied to get the toll because they wanted the incentive for the private investor to build the lighthouse. What reaction have you had over the years when Paul Samuelson or other economists would use this example of the lighthouse as a necessary government function?

Coase: Samuelson says I was wrong and he was right, and he froths at the mouth when people talk about the lighthouse example. He says Coase is wrong; he doesn't overcome the free rider problem. Who are the free riders? The foreign ships going past the British coast which do not call at a British port. Using Samuelson's approach, what do you do? Do you ask the foreign governments to give you a subsidy? Do you tax people in Britain because the foreign ships are getting help without paying for it? What do you do?

My approach is to compare the alternatives. People like Samuelson like to set up a perfect world and say that the market does not bring us to this point and imply that the government should do something. They stop their analysis at that point.

"People like Samuelson set up a perfect world and say that the market does not bring us to this point and imply that the government should do something. They stop their analysis at that point."



Reason: Certainly if the government builds the lighthouses and operates them at a zero price to the shippers, there's a huge free rider problem there, free riding on the taxpayer. But you had to go back to the early days to find the private ownership?

Coase: Yes, that's right. From 1838 or some such date, I can't remember it, the lighthouse people were bought out and compensation was given. Samuelson says that no one would build a lighthouse with the idea of making a fortune. Actually, people did build lighthouses and did make a fortune.

Reason: What about your article on the market for goods and the market for ideas in the *American Economic Review* in 1974? You created quite a stir with this and were interviewed by *Time* magazine. What did you say in that article, and why was it so controversial?

Coase: It was controversial because I said that the arguments for regulation of the market for goods and the regulation of the market for ideas are essentially the same, except that they're perhaps stronger in the area of ideas if you assume consumer ignorance. It's easier for people to discover that they have a bad can of peaches than it is for them to discover that they have a bad idea.

Reason: So if you think that the consumer, ignorant as he is, ought to be protected by a government regulator, then you should really believe that the government regulator ought to step in and police the speech of professors or politicians or pundits.

Coase: That's right. If the government is competent to do the one, it's competent to do the other.

Reason: Then there ought to be a federal philosophy commission.

Coase: That's right. The press was horrified by the idea.

"The arguments for regulation of the market for goods and the regulation of the market for ideas are essentially the same. If the government is competent to do the one, it's competent to do the other."

If the argument is exactly the same for regulating the press as for regulating peaches, this meant that I was arguing for regulation of the press.

Reason: You have to be careful with reductio ad absurdum arguments.

Coase: As they assumed that all regulation in the market for goods was fine, it never struck them that the argument was really the other way around.

Reason: You wrote another influential article called "The Nature of the Firm" in 1937. Explain what you found in that article.

Coase: I discovered there was something economists left out of their analysis of market competition, namely the costs of using the market, something which has become known—although I didn't invent the term—as "transaction costs."

Reason: Where you have transaction costs, you don't automatically get the invisible hand diverting resources where they do the most good?

Coase: That's right. People adopt other forms which they hope will produce the right result. They change the forms of contracts, taking account of it. They do lots of things. The firm itself is a response to that, but lots of contracts are as well. Even the form of markets, what you can trade: The rules and regulations of the submarket or produce exchange are designed to reduce transaction costs. You see these pictures of the way they do things: You wiggle your hands and this means you want to buy half a million tons of something for delivery in May at a certain price. And a person wiggles their hands, and the trade has gone through. You couldn't do this without having a terrific body of laws or regulations behind you so that people know what they're doing when they wiggle their hands. It can only happen quickly because the law has developed in such a way—in this case it's largely private law—so as to make transactions possible.

You've got to be able to carry out transactions at costs less than the benefit which you are going to get. Every time people lower the costs of carrying out transactions, you get these extra benefits. How do we do it? That's what I'm interested in exploring now, and getting others to explore, of course.

Reason: People are very excited that transactions are taking place much more efficiently than ever before through new electronic means and better communication systems. Are you excited about these trends?

Coase: Yes, because I don't understand them. People talk about increases in improvements in technology, but just as important are improvements in the way in which people make contracts and deals. If you can lower the costs there, you can have more specialization and greater production. So that's what I'm interested in now. By improving the way the market works, you can produce immense benefits, not because it invents new technologies, but because it enables new technologies to be used. Without the ability to make efficient contracts, you can't use these new means. And a lot of effort is going, at the moment, into devising new ways of handling the problems, mainly by the lawyers.

Reason: Some people would say that it's just paper transactions, that all the efforts of the lawyers are a waste, a mess, a scourge on society. You have a slightly different view.

Coase: Lawyers do a lot of harm, but they also do an immense amount of good. And the good is that they are expert negotiators, and they know what is necessary in the law to enable deals to be made. Their activities are designed, in fact, to lower transaction costs. Some of them, we know, raise transaction costs. But by and large, they are engaged in lowering transaction costs.

People talk about the information age and how large numbers of people are engaged in information activities. Well, gathering information is one of the difficulties when you're in a market. What is being produced, what are the prices of what is being offered? You've got to learn all these things. You can learn them now a good deal more easily than you could have done before; you don't have to search. If you've ever tried to buy anything, you know how much time goes into finding out what's available and all the alternatives.

Reason: That search cost is going to be much lower as information technologies lower the cost of finding out what's out there and take people all over the globe and put them next to each other.

Coase: That's right. You don't necessarily have to go to Singapore or somewhere to find out what's available there.

Reason: So would you think we are embarking on a golden age of economic expansion?

Coase: I think we could be. Whether we'll mess things up is another thing. There are more wrong ways of doing a thing than right ways. But I really think that one can be optimistic now.

What's the Hook?

Smoking is more than a chemical bond.

By Richard J. DeGrandpre

During the presidential election campaign, Bill Clinton successfully cast Big Tobacco as a national enemy, with Bob Dole playing the role of collaborator by downplaying the addictiveness of nicotine. Meanwhile, the Food and Drug Administration has been asserting jurisdiction over cigarettes as "nicotine delivery devices," arguing that tobacco companies intend to hook their customers, just like schoolyard drug pushers. Hundreds of pending lawsuits, including class actions and cases filed by state governments, similarly allege a conspiracy to addict smokers. These developments represent important changes in our attitudes toward cigarettes. Though justified in the name of public health, the increasing emphasis on the enslaving power of nicotine may only make matters worse.

Understanding why requires careful consideration of the conventional wisdom about tobacco addiction, which recycles mistaken assumptions about illicit drugs. During the latter half of this century, the classical model of addiction, derived from observations of narcotic abuse, increasingly has been used to describe the cigarette habit. The classical model states that consumption of certain chemicals causes a physical dependence, either immediately or after prolonged use, characterized by withdrawal symptoms—symptoms that can be avoided or escaped only by further drug use. As Steven Hyman, director of the National Institute of Mental Health, opined recently in *Science*, "Repeated doses of addictive drugs—opiates, cocaine, and amphetamine—cause drug dependence and, afterward, withdrawal."

This cyclical model, in which the drug serves as both problem and solution, offers a simple, easy-to-grasp account of the addiction process, giving the concept great staying power in the public imagination. In the case of smoking, this view of addiction is central to the rationale for regulating tobacco and the concern that the cigarette companies have been doping their products with extra nicotine. But the classical model tends to conceal rather than elucidate the ultimate sources of addiction, and it is just as ill-suited to the cigarette habit as it has always been for understanding illicit drug use.

If a chemical compound can be addictive in the manner described by NIMH Director Hyman, we would expect anyone who regularly uses such a substance to become addicted. Yet only a minority of those who use illicit drugs—whether marijuana, cocaine, or heroin—ever develop a dependence on them. The prevalence of addiction, as defined by the American Psychiatric Association's *Diagnostic and Statistical Manual*, among users of alcohol and cocaine runs about 15 percent and 17 percent, respectively. Even in a sample of 79 regular crack users, Patricia Erickson and her colleagues at Toronto's Addiction Research Foundation found that only about 37 percent used the drug heavily (more than 100 times in their lives), and 67 percent had not used in the past month. A similar pattern holds for tobacco. In the 1994 National Household Survey on Drug Abuse, 73 percent of respondents reported smoking cigarettes at some time, but only about 29 percent reported smoking in the previous month, and not necessarily on a daily basis. Writing in the May/June *Mother Jones*, Jeffrey Klein manages to argue that nicotine enslaves its users and, at the same time, that Tobacco Inc. seeks to recruit young smokers to replace the 1.3 million Americans who quit each year. If nicotine is so relentlessly addictive, how can it be that 50 percent of all Americans who have ever smoked no longer do?

The classical model also suggests that the cigarette habit should be highly amenable to nicotine replacement therapy, such as the nicotine patch. Yet few of the tens of thousands of patch users have actually broken the habit (only about 10 percent to 15 percent succeed). In direct conflict with the classical model, most keep smoking while on the patch, continuing to consume the carcinogens in cigarette smoke while obtaining considerably higher blood levels of nicotine. A 1992 study of nicotine replacement therapy reported in the journal *Psychopharmacology* concluded that the "overall lack of effect [of the patch] on cigarette consumption is perhaps surprising and suggests that in regular smokers the lighting up of a cigarette is generally triggered by cues other than low plasma nicotine levels."

Those who begin smoking now do so with the belief that it is addictive, causes poor health (and wrinkles!), and can be deadly. If individuals are willing to start smoking despite such knowledge, it is likely that they will acquire and keep the habit, seeming to confirm the current, politically correct image of addiction.

Most people who successfully quit smoking do so only after several failed attempts. If addiction is driven by physical dependence on a chemical—in this case, nicotine—relapse should occur during withdrawal, which for nicotine typically lasts a few weeks. Yet a sizable proportion of relapses occur long after the smoker has suffered through nicotine withdrawal. In fact, studies do not even show a relationship between the severity of withdrawal and the likelihood of relapse. As any former smoker could tell you, ex-smokers

crave cigarettes at certain times and in certain situations for months, even years, after quitting. In these cases, the desire to smoke is triggered by environmental cues, not by withdrawal symptoms. This is one reason why people who overcome addiction to illicit substances such as heroin or cocaine often say they had more difficulty breaking the cigarette habit. Because regular tobacco users smoke in a wide array of circumstances (when bored, after eating, when driving) and settings (home, work, car), the cues that elicit the urge are more ubiquitous than for illicit drug use.

AT THIS NICOTINE LEVEL WE ACHIEVED RAPID PRODUCT LOYALTY BUT FOUND IT TO BE SHORT TERM.
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These failures of the classical model illustrate how conventional wisdom oversimplifies the dynamics of cigarette smoking. This reductionist view is dangerous because it ignores the psychosocial factors that underlie addiction. In coming to terms with cigarette addiction as a psychosocial process, rather than a simple pharmacological one, we need to distinguish between cigarette addiction and nicotine addiction. Certainly no one (except perhaps the tobacco companies) denies that cigarette smoking can be addictive, if by addiction one means a stubborn urge to keep smoking. But it is quite a different matter to say that nicotine accounts for the addictiveness of smoking. Nicotine withdrawal notwithstanding, nicotine alone is insufficient, and may even be unnecessary, to create cigarette addiction.

This claim can be clarified by two dramatic case studies reported in the *British Journal of Addiction* in 1973 and 1989. The earlier article described a 47-year-old woman with a two-and-a-half-year-long dependence on *water*, one of several such cases noted by the author. The woman reported a nagging withdrawal symptom—a dry, salty taste in her mouth—that was alleviated by the persistent drinking of water (up to 60 glasses per day). This case of dependence on a nonpsychoactive substance contrasts sharply with the second account, which described an 80-year-old woman who used cocaine without incident for 55 years. The authors reported that "she denies any feelings of euphoria or increased energy after [snorting] the cocaine nor any depression or craving for cocaine when her supplies run out....She appears to have suffered no ill effects from the prolonged use of cocaine in physical, psychological or social terms." So we see that not every addiction involves drug use and not every instance of drug use involves an addiction.

To say that cigarette addiction is a psychosocial process means that social, cultural, and economic factors play a crucial role in acquiring and keeping a cigarette habit. In fact, the tendency to reduce the cigarette experience to chemical servitude may be one of the most powerful cultural factors driving addiction. Cigarette lore wrongly teaches smokers (and smokers-to-be) that they will suffer badly if they attempt to quit, while at the same time freeing them of responsibility for their drug use once they begin. Such beliefs also help romanticize cigarette smoking, elevating nicotine to a sublime abstraction. This not only reinforces the forbidden fruit effect, it helps transform the habit of smoking into a cult behavior. Smoking thus acquires the kind of meaning that the youth of America are most in search of: social meaning. As Richard Klein writes in *Cigarettes Are Sublime*, "smoking cigarettes is not only a physical act but a discursive one—a wordless but eloquent form of expression."

To counteract the forces that give momentum to drug use, the public meaning of addiction needs to be broadened to include the many, changing facets of the psychosocial realm in which we develop. "Putting people back in charge" of their addictions, as John Leo puts it in *U.S. News & World Report*, will not work if we focus only on the naked individual. Rather than pushing the pendulum of public policy between scapegoating the substance and scapegoating the individual, we should seek a middle ground. Realizing that the addiction process has at least three levels of complexity is a good place to start.

First, at the basic and most immediate level, are the short- and long-term biological processes that underlie the psychological experiences of drug use and drug abstinence. Even with the same drug, these experiences vary greatly across individuals. Scientists and journalists too easily forget that every psychological process is built on biology. Discoveries of biological mechanisms and processes underlying addiction are not proof that the problem is biological rather than social and psychological. Eating rich foods has powerful biological effects in both the short and long run, but we should not therefore conclude that the rise in obesity in the United States is a biological problem. Indeed, attempts to alter the addiction process that emphasize biochemistry (such as the nicotine patch) have met with little success.

At the next level are psychological processes (social, motivational, learning) that, although rooted in biology, are shaped by personal experience. Because each of us has unique life experiences, we do not necessarily interpret the same events in the same way. The reasons for one individual's addiction may be altogether different from the reasons for another's. As the recent Scottish film *Trainspotting* makes clear, stories of addiction are no less complex than any other personal stories. Still, intervention at this level has had some success with users of alcohol or illicit drugs, and several research and treatment institutions are examining methods for "matching" addicts with different treatment strategies based on their social and psychological characteristics.

Drug effects and drug addiction also

CHIP BOK

vary greatly across time and place, implicating cultural factors as the third and most general aspect of drug addiction. These factors are rooted in but not reducible to psychological processes, just as psychological processes are not reducible to biology. Patterns of alcohol use around the world, which show that the prevalence of drinking problems cannot be predicted by consumption alone, illustrate the importance of culture. Italians, for example, historically have consumed large quantities of alcohol with relatively low rates of drunkenness and alcoholism. The effects of alcohol on human behavior—violence, boorishness, gregariousness—also have been shown to vary dramatically across cultures.

In coming to terms with cigarette addiction as a psychosocial process, rather than a simple pharmacological one, we need to distinguish between cigarette addiction and nicotine addiction.

Given the cultural role in addiction and the radical changes that have occurred in attitudes about smoking, it is quite possible that the young smokers of today are not at all like the smokers of 50 years ago. Those who begin smoking now do so with the belief that it is addictive, causes poor health (and wrinkles!), and can be deadly. If individuals are willing to start smoking despite such knowledge, it is likely that they will acquire and keep the habit, seeming to confirm the current, politically correct image of addiction. And if this self-fulfilling prophecy is realized, chances are that interventions aimed at the social realm will continue to miss their target and fail to curtail addiction.

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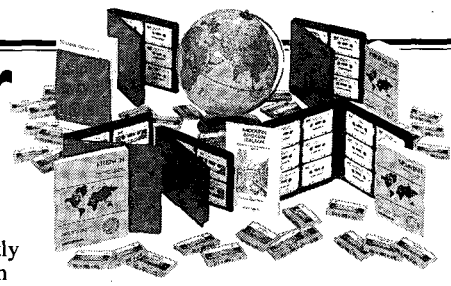

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Proclaiming Freedom

Israel's prime minister talks seriously about economic reform.

By Daniel Doron

As a result of last fall's violence and the ensuing efforts to rescue the peace process, security concerns have once again eclipsed all other public policy issues in Israel. Despite years of talk about the need for economic reform, therefore, major changes are not likely in the near future. But once the government of Prime Minister Benjamin Netanyahu has some breathing space, there is reason to hope he will do more than talk.

In his June 1 victory speech, Netanyahu put security at the top of his agenda, like every prime minister before him. But he went on to discuss economic issues with equal fervor and conviction: "We shall establish in Israel—listen well to my words—we shall establish in Israel a truly free economy that is not governed by political operatives or by bureaucrats, an economy that does not hinder enterprise. I am confident that in this way we shall liberate the creativity, the genius of this nation, so that the Israeli economy will progress, will soar, will prosper and flourish. I am convinced that Israel can become one of the leading economies, prosperous and advanced."

No previous prime minister had thought economics worthy of mention on such an occasion, certainly not on a par with security concerns and certainly not as a vision to mobilize the energy and capture the imagination of the Israeli public. But no previous prime minister had been so influenced by America's entrepreneurial, pro-market ethos. Though born in Israel, Netanyahu spent most of his adolescence in the United States, where his father, a distinguished historian, held a teaching post. After five years of military service in Israel, he returned to America for college, earning a business administration degree from MIT. In the 1980s he served as a minister in Israel's Washington embassy and as Israel's ambassador to the United Nations. Later, as a Knesset member, Netanyahu did not pay much attention to economic affairs, concentrating on rebuilding the strife-torn Likud Party and positioning himself as its leader. He nevertheless always stressed the need for "a change toward freer markets." During his election campaign, which focused mainly on the vote-getting issues of security and peace, he talked about tax cuts and mass privatization of state-owned businesses.

Of course, Likud has paid lip service to economic reform in the past without accomplishing much after gaining power. One reason for optimism is that Netanyahu is Israel's first directly elected prime minister, which makes him less dependent on favor-seeking coalition partners. Furthermore, his statements and actions since the election suggest he is serious about cutting back the government's role in the economy. His cabinet has endorsed $1.5 billion in cuts from next year's $32.6 billion budget, and he has targeted more than 100 state-owned enterprises for privatization. The spending cuts and the privatization program are part of what he calls a "sweeping liberalization policy for the Israeli economy." While "Israel has had incremental structural reforms since 1986," he said in July, "we intend to do a lot more in a compressed time. It is privatization and liberalization and deregulation, especially the deregulation program, that will bring the economic growth that I envision."

On its face, the Israeli economy has boomed in recent years, with average annual growth of about 5 percent. But this growth has not been due to significant increases in productivity, which has been inhibited by monopolies and protectionism. The last Labor government induced much of the growth by spending about $7 billion of $10 billion in U.S. loan guarantees, money intended to help absorb the recent wave of immigrants from the former Soviet Union. The standard of living has risen dramatically because of big wage hikes in the public sector, which employs two out of every three Israelis. Many public-sector employees, especially in the utilities and the state-owned banks, earn five times the average wage of about $1,500 a month, while managers' salaries can reach $30,000 a month. The country is bursting with new cars, designer shops, and expensive restaurants, but these reflect the growing riches of the elites that govern Israel. Despite huge transfer payments (more than a quarter of GNP), the gap between rich and poor, among the widest in the Western world, keeps growing.

Israeli Prime Minister Benjamin Netanyahu: Will he move beyond security concerns and liberate his nation's economy?

AP/WIDE WORLD PHOTOS

In the 1995 *Economic Freedom of the World* index, Israel ranked 70th, after Pakistan, Bangladesh, and Tunisia. Taxes amounted to 41 percent of GDP in 1995 (the total budget, including deficit spending, was about half of GDP). Along with a 17 percent value-added tax, Israelis pay steep income taxes. A worker who earns the equivalent of about $27,000 a year, for example, is subject to a marginal rate of 45 percent. Because of taxes, trade barriers, and monopolies, consumers pay inordinately high prices for clothing, electronics, and other durable goods. Cars and appliances cost two to three times as much as they do in the United States. Tariffs on building materials and state control of real

estate inflate the cost of housing, so that most young couples cannot buy an apartment without massive assistance from their parents. Making ends meet is so hard that Israelis typically moonlight in several jobs and live on overdrafts. More than 1 million wage earners receive income supplements from the government. Starting a business is very difficult. On top of high taxes and heavy regulation, entrepreneurs have trouble borrowing money, since credit is usually available only to the well-connected.

Indeed, real private business is more the exception than the rule in Israel. The government owns 93 percent of the land, along with all water, natural resources, energy, and telecommunications. It runs the education, health, pension, and insurance systems. To finance large budget deficits, Labor governments have dominated financial markets since the state's creation in 1948, absorbing 90 percent of savings and allocating credit through the three major banks: the Labor-affiliated Ha'poalim, Leumi, and Discount. These institutions, which were effectively nationalized in 1984 after a taxpayer-funded bailout, control almost 87 percent of all banking assets, estimated at more than $100 billion. (Israel's 1994 GNP was $70 billion.) The three banks also control $37 billion in affiliated financial intermediaries, representing 24 percent of all savings, and scores of billions in nonbanking assets.

The Israeli economy is so concentrated in the hands of interlocking political and economic elites that any effort to change the rules of the game will encounter fierce resistance. Before the election, more than 350 of Israel's economic movers and shakers participated in a rally and financed an ad campaign for Labor Prime Minister Shimon Peres. It is not hard to imagine their attitude toward anything approaching "a sweeping liberalization policy." In an August interview with *The Jerusalem Post*, Finance Minister Dan Meridor was asked about ending subsidies for Egged and Dan, two major transportation monopolies. He laughed and said, "You want to unleash at me all the sleeping dogs?"

Though virtually bankrupt and discredited after decades of political corruption, the Histadrut, the trade union federation closely associated with the Labor Party, still claims 750,000 members, almost 40 percent of Israel's work force. In July it staged a 10-hour, nationwide strike to protest Netanyahu's proposed budget cuts, which include reductions in family allowances and benefits for the elderly. "The government has declared war on the weak," said Ra'anan Cohen, a Labor member of the Knesset. Yossi Sarid, leader of the leftist Meretz Party, said "Netanyahu's government has betrayed the trust placed in it by imposing cruel economic edicts."

Formidable as it is, the resistance from opposition parties and economic interests is at least open. Not so the reluctance of Israel's technocrats, the economists who staff the Bank of Israel and the Ministry of Finance. Ideologically committed to "equality" and "social justice," they are instinctively suspicious of free markets. These bureaucrats sincerely believe that they have to constantly interfere in the economy for the public good. They are generally recruited straight from school and soon achieve great power, which they are naturally reluctant to give up. They tend to be extremely cautious and wary of treading on the toes of powerful vested interests, so they reject any reform that seems politically risky. They also retire early, taking lucrative jobs in the public or quasi-public sector, another reason they may not want to rock the boat. As a result, the reforms they put forward are likely to be half-hearted and ineffectual. It is hardly surprising, then, that the Treasury has yet to offer plans for deregulation or for basic reform of financial markets.

Netanyahu's statements and actions since the election suggest he is serious about cutting back the government's role in the economy.

Public opinion is another barrier to liberalization. Despite a general recognition that the government is bloated and inefficient, this is a country long dominated by socialists, where capitalism is commonly called "cutthroat competition" and there is no word for deregulation. Making the case for an open economy, Finance Minister Meridor felt a need to assure readers of *The Jerusalem Post* that "we should not be ashamed to import what we cannot produce better than others." When Netanyahu proposed a means test for the allowances that the government pays to every family based on the number of children, even affluent Israelis complained. A mother of two with a family income of $60,000 told *The New York Times* that she didn't need the money, but she worried that the cuts would "create a new barrier between rich and poor." Similarly, a columnist for the newspaper *Ha'aretz* complained that Netanyahu was "stubbornly insisting on playing the requiem of the welfare state, striking the death chord of social solidarity in Israel."

To counter such appeals, advocates of reform need to emphasize how government hurts the average Israeli. At the same time that the government seeks to encourage large families through cash subsidies, for example, it makes life harder for them. They are forced to pay exorbitant monopolistic or protected prices for the most basic goods, for food and clothing. Services, such as health and education, are supposed to be "free" (financed by taxes), but the quality is often so poor or deficient that families have to purchase supplemental services (private tutoring, school supplies, and medical attention) at additional high cost. The lower-income groups are hit hardest by this "system," their life made inordinately difficult, so they should welcome any reform that will offer them relief.

But even if he gains popular backing, Netanyahu faces a daunting task. In recent decades every Israeli government has promised to reform the country's backward, anti-productive system. None, right or left, has delivered. Statism is too entrenched, too attractive to Israel's political class and too lucrative for the country's economic elites. Consequently, while the determination that Netanyahu has demonstrated so far is no guarantee of success, it *is* a minimum requirement. Netanyahu will have to exhibit great political savvy, bargaining and marketing skills, and executive ability if his ambitious goals are to be even partially realized. ◆

Daniel Doron is the director of the Israel Center for Social and Economic Progress, an independent think tank. Susan Doron contributed to this article.

TV's Dysfunctional Family Affair

The really shocking shows are on Nick at Nite.

By Charles Oliver

If there's one thing politicians seem to be good at, it's jumping on a dead trend. Vice President Al Gore is a master of this. In August, just before the Democrat convention, he was spotted dancing the Macarena. A couple of months later, in October, Gore attacked *Mighty Morphin Power Rangers.* He called the show "sugary and sociopathic." *Passé* would have been more apt.

A few days after Gore's rant, 22 members of Congress showed they were on top of things by attacking the 10-year-old Fox television series *Married... With Children.* They sent a letter to Fox decrying the network's decision to move the show from its 9:30 p.m. time slot to 7 p.m. on Sunday. These lawmakers undoubtedly would have been even more outraged had they known that syndicated reruns of the series have been broadcast nightly in that time slot for years.

It's clear that politicians just can't resist attacking television. And it's equally clear that they know little about it. So I thought I'd help them out. They keep focusing on the big networks, syndicated daytime talk shows, and other broadcast programming. The thing is, broadcast shows have been losing market share for years: Cable is where the action's at.

If politicians think television shows should highlight values such as two-parent households and the peaceful resolution of conflicts, then basic cable is a real cesspool. And that's mostly because cable endlessly reruns the "classic" TV shows that gave way to the likes of *Married... With Children* and *Power Rangers.* Just try, for example, to find any traditional role models—or even a family with a living mother and father—on cable.

Start with TBS. Ted Turner, who before marrying Jane Fonda championed "family" TV, put this station on satellite way back in 1976. It's a leader in basic cable. The anchor series for TBS has always been *The Andy Griffith Show.* Nice and safe, right? Wrong.

Andy Taylor is a widower. His wife died before the series began. So there's no mother to raise little Opie (though he does have Andy's spinster Aunt Bea). And while Andy dates a string of nice-looking women during the run of the show, his closest relationship is with his deputy, Barney Fife. Want more? Consider this: Of all the major male characters on the show—Andy, Barney, Floyd the barber, Howard Sprague, Goober, and Gomer—the only married one is Otis Campbell, the town drunk. What sort of message were the makers of this show trying to send?

Another TBS staple is *The Beverly Hillbillies.* Once again, Jed Clampett is a widower. While his daughter Ellie Mae lacks a mother, she does have a grandmother who keeps a still in the backyard and who constantly tries to sneak some of her "rheumatism medicine." Grandparents are portrayed so rarely on television. Is it really necessary for one of the few on TV to have a substance-abuse problem?

And what about Jethro, Ellie's cousin? He spends most of his time trying to attract nubile young women. And think about this: Jed is Jethro's uncle. But Jethro's mother is Jed's cousin Pearl. Try to diagram that family tree. The Clampetts' next-door neighbors are the Drysdales, a couple obviously involved in a loveless marriage. The Drysdales are occasionally joined by Sonny, Mrs. Drysdale's son by a previous marriage.

On another Turner station, TNT, you can catch *Gilligan's Island.* It has seven regular characters. Only two of them—Mr. and Mrs. Howell—are married. They apparently have no children.

Had enough? Then flip over to another superstation, WOR. It has *The Fugitive.* The lead character here is Dr. Richard Kimball. Dead wife, no kids. WOR also runs *The Partridge Family.* In this show, the father has died. So mom loads up the kids onto a psychedelic bus and turns them into a rock band. You can also catch *Magnum, P.I.* on WOR. This one revolves around Thomas Magnum and his pal Jonathan Higgins, an older man who lets Magnum live with him rent-free in a palatial estate. Both men have mustaches.

OK, so turn over to Nickelodeon's "Nick at Nite," shows that preserve our national "television heritage." The big series here is *The Mary Tyler Moore Show.* Again, Mary is single—no husband, no children—even at her advanced age. She "dates" a slew of men, but the real sexual tension on this show is between her and her married boss, Lou Grant. Before the end of the series, Lou gets divorced. Perhaps his wife left from jealousy over Mary. One of their co-workers is Sue Ann Nivens, a sex-obsessed hostess of a cooking show.

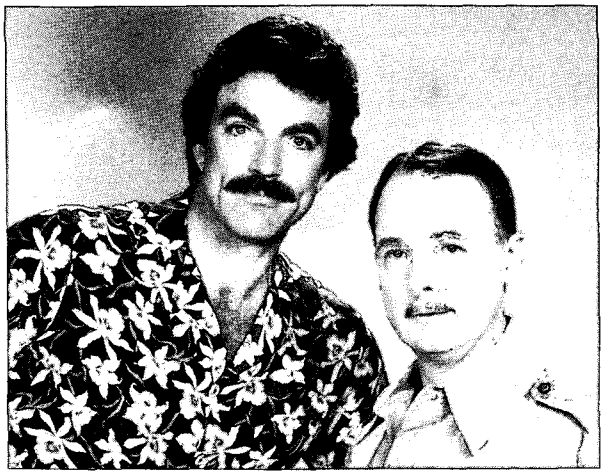
The *Happy Days* Cunningham family appears to be a loving, intact unit. Yet most people forget that oldest son Chuck disappears after the first season. What did Chuck do that his family so completely disowned him?

Nick at Nite also shows *The Odd Couple.* Nothing more needs to be said about that.

Another Nick at Nite show is a tad more deceptive. At first glance, the *Happy Days* Cunningham family appears to be a loving, intact unit. Yet most people forget that oldest son Chuck disappears after the first season. No reason is offered for his abrupt departure; he's simply never mentioned again. What did Chuck do that his family so completely disowned him? And what does this situation say about how close that family really was? Or how it deals with problems?

A couple of years ago, Nick at Nite revived *The Courtship of Eddie's Father.* It features another widower with a cute kid. He dates a passel of attractive women, and he has a live-in female housekeeper.

So change the channel to The Nashville Network. Most of this station's programming consists of music videos showcasing the traditional values of country music: alcoholism, infidelity, serving time in prison, and brawling. But for now, let's leave aside the messages sent in these songs. Instead, let's focus on a couple of series rerun on TNN. The first is *The Dukes of Hazzard.* Once again, the Duke boys have no parents. Bo and Luke live with their Uncle Jesse. And there's plenty of subtle—and sometimes not-so-subtle—sexual tension between them and their cousin Daisy.



Classic-TV role models: *Magnum, P.I.* revolves around Thomas Magnum and his pal Jonathan Higgins, an older man who lets Magnum live with him rent-free in a palatial estate.

The other dramatic series rerun on TNN is *Dallas.* The Ewings aren't exactly the most functional family in the world. J. R. constantly tries to screw his brother Bobby out of the family business. He repeatedly cheats on his wife, and she eventually divorces him.

The Ewings' other brother, Gary, is so alienated from the family that he's a regular on *Knot's Landing,* not *Dallas.* That's familiar stuff to most TV viewers. But let's not forget that, in the first season of the show, ranch hand Ray Krebs has an affair with J. R.'s sister Lucy. A few years later, it's revealed that Ray is actually the illegitimate son of J. R.'s daddy Jock. That means Ray slept with his half-sister.

Sanford and Son anchors Black Entertainment Television's weeknight schedule. The show centers on yet another widowed father and his adult son, who still resides at home. They live in a junkyard and argue all the time. The father's unconventional parenting techniques include calling his son "dummy," comparing his dead wife's sister to a gorilla, and extolling the virtues of cheap wine.

OK, OK, so most cable is toxic. But at least The Family Channel must be safe. After all, it's run by televangelist Pat Robertson. And the name—well, there has to be truth in advertising.

Yet even Robertson neglects his duty to provide moral uplift through entertainment. The channel's Saturday afternoon lineup consists of old Western series. Let's start with *Bonanza.* Once more, the central character is a widower. This time he's raising three sons. But Ben Cartwright is no ordinary widower. He has buried three wives, and his longtime companion is his male cook, Hop Sing. A few years into the series, the Cartwrights added a new man to their household, a handsome cowboy they call "Candy." The all-male atmosphere seems to have left the Cartwright boys with a lot of unresolved anger. They can't seem to settle a dispute without violence.

Then there's *The Big Valley.* Here's a switch: It's about a single mother and her sons. But one of the boys, Heath, is actually her husband's illegitimate child, fathered in an affair he had with another woman. And longtime fans of the series will remember that daughter Audra tries to seduce Heath in the first episode, even though she knows that he is her half-brother.

Finally, there's *The Rifleman,* about another widower raising his son. Like the Cartwrights, Lucas McCain has a hard time controlling his temper. He kills more men than John Wesley Hardin, who famously shot a man just for snoring. Is it any wonder the son quivers whenever he talks to his dad?

For a time, the Family Channel was also home to *Gunsmoke,* the longest-running episodic series in American history. Matt Dillon isn't a widower. He isn't even married, but he does have a long relationship with "saloon hostess" Miss Kitty. Jeez, does Pat even watch the stuff he airs?

Each weeknight, the Family Channel runs old movie shorts featuring the Three Stooges. In most of these films, the Stooges aren't married. They are often depicted as living together. And their relationship has a decided S&M flavor to it. The channel has also run at least one special featuring magicians Siegfried and Roy. The less said about that the better.

The list goes on and on: *Family Affair* is now on fX, a channel run by alleged conservative Rupert Murdoch. The show's title makes it sound wholesome enough. But this time, both parents are dead, and the three children live with their Uncle Bill. Bill lives with a man called Mr. French. He tells the kids French is his manservant, but French is British, so there are other possibilities.

My Three Sons is another cable mainstay. Again, the lead is a widowed man raising his family. His only companion is a man his boys know as "Uncle" Charley. Charley is a former sailor who likes to cook and clean. Then there's *Flipper,* a series featuring another widowed father. Surprisingly, there's no male housekeeper this time. But the boy does develop an unusually close relationship with a (male) sea mammal. Finally, there's *The Honeymooners.* True, Ralph and Alice Kramden are married. But they have no kids. And their marriage provides a poor role model: Alice constantly belittles Ralph, and he responds with threats of violence.

If it were just one show, or even a few shows, where intact families were absent, one might think it was just a dramatic device. But when the percentage is so high, you have to believe it says something about the values of those who program these channels. And as far as I can tell, it means they value their wives dead.

You get the picture. In their zeal to get ratings and make money, the managers of these channels have shirked their social responsibility to uphold the institutions that society is based upon. Just wait until the politicians get the news. ◆

Contributing Editor Charles Oliver writes for Investor's Business Daily.

Market Culture

Bashed and unabashed

By Charles Paul Freund

Quick: Name an icon of "capitalism at its most unabashed." Who'd you come up with? Somebody like Bill Gates from the exploding information economy? A Daddy Warbucks from Wall Street? Some old-time, public-be-damned robber baron?

The correct answer—at least the one given by *The New York Times*—is pornographer Larry Flynt. That's him in the film still, as portrayed by Woody Harrelson in Milos Forman's movie, *The People vs. Larry Flynt.* The *Times* reviewed the film when it played the New York Film Festival, praising the characterization of Flynt as "a maverick vulgarian who embodies capitalism at its most unabashed."

Critic Janet Maslin thought the film's opening sequence particularly good: It shows the young Flynt, then a Kentucky moonshiner, selling whiskey to a helpless old drunk in exchange for his last two bucks. "It's free enterprise even if it isn't pretty," she wrote. Pornography and the ruin of drunks; that pretty much sums up capitalism, unless you want to include genocide.

And the *Times* did. Frank Rich, the paper's former drama critic and now a columnist, applauded the film on the op-ed page. To Rich, making the Flynt film was a matter of "urgency." Indeed, the result is "the most timely and patriotic movie of the year." Why? Because these days, "even the word 'liberal' is considered obscene." Rich's concern is not economic; it is that the curtain of totalitarianism is descending, lowered by the right's cultural commissars. He quotes director Forman on the stakes involved: "The Nazis and Communists began by attacking pornography, homosexuals—it always starts very innocently."

Quite a chorus. Not only are such ready-made blurbs from the nation's most prestigious paper a publicist's dream become ink, they are a first-rate example of just how much rhetorical content can be stuffed into a few phrases of cultural discourse. These few lines of praise and hype also double as validations of historical, social, and economic points of view long associated with the cultural elite; they are like bits of a Frankfurt School lecture overheard on an Upper East Side bus.

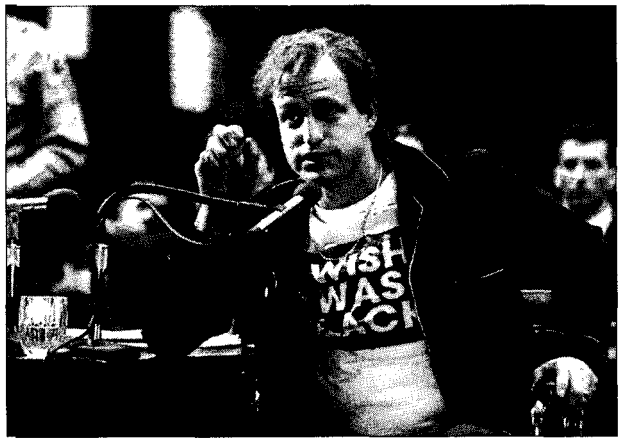
The movie itself is not at issue here; it had not been released at press time anyway. Milos Forman is a formidable director, having made films of power and consequence in both Prague and Hollywood, from *Loves of a Blonde* to *One Flew Over the Cuckoo's Nest* (as well as such duds as *Hair*). He is a filmmaker to whom it is worth paying attention. But this time the matter at hand is not his film; it is the discourse it sparked even before it was released. Here, then, is some counter-discourse to munch on, along with your popcorn.

First, this project is a typical piece of Hollywood courage: The key court case in the film's script was brought against Flynt by fundamentalist preacher Jerry Falwell. First Amendment dramas that derive from hate-speech codes, lists of forbidden terminology based in the cant of diversity-think, or censorious feminist ideology have yet to find their multi-million dollar budgets or cultural champions. Columnist Rich, it should be noted, made some effort to bow in all these directions at the same time, citing Flynt's "nasty debasements of women" in particular, and "the grotesque excesses of our culture" in general. This very straddling, however, highlights the tension at the core of his op-ed lecture: his equating of "liberal" attitudes with the defense of the First Amendment. T'ain't so.

Second, Flynt's a has-been panderer. Like most figures who make their fortunes shocking the bourgeoisie, he eventually came to bore them instead. As a has-been, he ceases to be a threat to liberal sensibilities, and becomes available as a bludgeon for the left to use against the right in their continuing culture wars. Insofar as what he actually produced in the past remains offensive to those sensibilities, well, that's where capitalism comes in. Flynt's free speech rights are dear; if he used them to express garbage, then that's what unabashed market culture is all about. The argument becomes seamless.

Third, porn and alcohol predate capitalism by several millennia, and associating them through Flynt is at best superficial. Markets certainly facilitate the efficient production and distribution of both, but then the alternative is neither virtue nor sobriety. When the Soviets suppressed alcohol in the name of the collective Radiant Future, people drank after-shave; it was a command economy even if it wasn't pretty.

But even if one insists on viewing the world through Flynt's peephole, capitalism—though it did not create sin—has another, more pertinent, role to play. Market culture, because it vastly increased material wealth,



Woody Harrelson as Larry Flynt in *The People vs. Larry Flynt*: According to *The New York Times*, Flynt is "a maverick vulgarian who embodies capitalism at its most unabashed."

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rearranged social power, and created numerous avenues for information exchange, sparked a wave of emancipatory and reform movements in the industrializing societies where it took root. Among the new voices being heard were those of the founding feminists; their heirs are of course the secular opposition to Flynt and others like him. The free press through which they advance their arguments appears to have a certain connection to the free market. Perhaps this is all capitalism in one of its more abashed forms.

Fourth, it is painful to see a serious figure like Forman stupefy his own sense of the past to hype his movie with references to Nazis. Born in 1932 in Czechoslovakia, Forman experienced the Nazis and Stalinism firsthand. Indeed, the 1965 film that first brought him world attention, *Loves of a Blonde*, was an important part

Porn and alcohol predate capitalism by several millennia, and associating them through Flynt is at best superficial.

of the mid-'60s cultural run-up to the Prague Spring. That film focused on the all-female work force of a Czech factory and the state's bumbling attempts to introduce men into their environment. It was understood as a tale of the state's inability to solve anyone's personal problems.

Now Forman is willing to invoke Nazis and communists to fan interest in a story of an American pornographer in civil court. That Flynt won his Supreme Court appeal in the Falwell suit is a good thing indeed, though the fact that the decision in his favor was unanimous, and that it was written by Chief Justice William Rehnquist —about whom the left has little good to say—would seem to vitiate the Nazi parallel.

Finally, this movie was co-produced by Oliver Stone, who as a mongerer of paranoia, a narrator of pseudo-history, and an exploiter of violence as pseudo-protest, knows something about the lack of abashment. ◆

Charles Paul Freund (cpf@his.com) is a senior editor of REASON.

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Back to Basics

By Lynn Scarlett

The Demise of Environmentalism in American Law, by Michael S. Greve, Washington, D.C.: American Enterprise Institute, $29.95/$9.95 paper

In 1992, Defenders of Wildlife sued Manuel Lujan, then secretary of the interior, seeking to compel the federal government to apply the Endangered Species Act to foreign nations. The plaintiffs claimed they had visited ecologically sensitive areas in Egypt and Sri Lanka that later became sites of large-scale development projects funded by the U.S. government. These projects, the suit protested, threatened certain endangered species, thereby depriving the plaintiffs of the opportunity to observe these animals in the future. The U.S. Supreme Court ruled that the lawsuit's affidavits "plainly contain no facts...showing how damage to the species will produce 'imminent injury'" to the plaintiffs. The Court found the Defenders of Wildlife had no legal standing to sue.

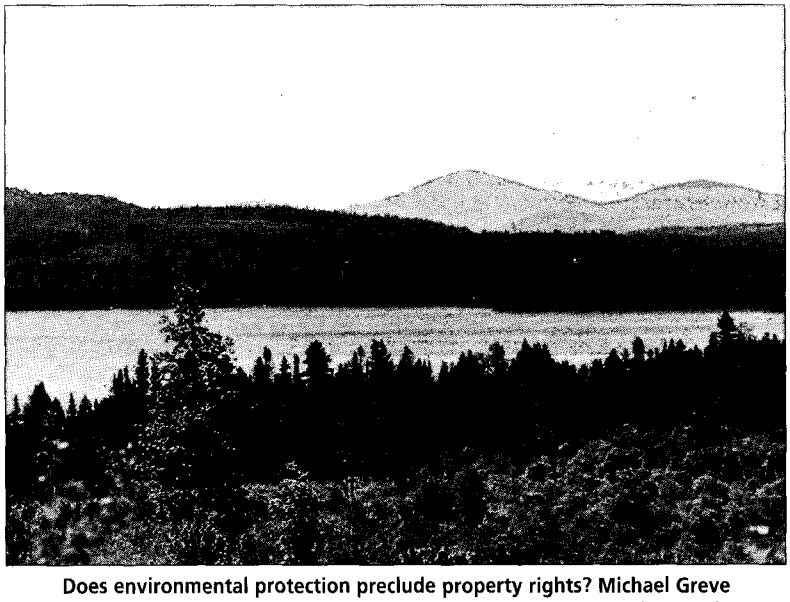
This result, writes Michael Greve in *The Demise of Environmentalism in American Law*, marked a "direct challenge" to legal doctrines that had emerged over the previous 25 years. Greve, a political scientist and executive director of the Center for Individual Rights, a public interest law firm, argues that *Lujan v. Defenders of Wildlife* is one of several cases indicating that the courts have begun to question the basic philosophical principles of modern environmentalism.

It might seem odd that environmental regulations and related court cases have garnered so much national political attention. Federal environmental spending is just a fraction of outlays for national defense, Medicare, and other entitlement programs. And except for a handful of industries, private spending on environmental compliance pales in comparison to other costs imposed by government on business. So why all the fuss? The answer is that environmentalism is a coherent ideology that rivals Marxism in its challenge to the classical liberal view of government as protector of individual rights.

For Greve, the essence of environmentalism is a vision of "a world in which everything is connected to everything else." From this basic idea flow certain legal and political principles: "Environmentalism views common-law rights—such as private property and freedom of contract—as a menace to an imperiled planet. It therefore aims to eviscerate common-law rights and to replace them with a legal regime that would organize transactions among individual citizens for a single public purpose, environmental protection. Environmentalism thus pushes toward a centralized, unlimited political scheme. To the extent that this scheme allows for 'rights' they are defined and circumscribed by public purposes." In the world of the courts, says Greve, this environmental paradigm has translated into an unprecedented erosion of property rights, a loosening of criteria for determining standing to sue, and a transformation of the courts' constitutional role.

The Demise of Environmentalism in American Law is an important book in three ways. First, it succinctly restates some key philosophical premises of modern environmentalism. Second, it offers a highly readable and subtle exploration of several central tenets of American constitutional law. And third, in exploring the environmental paradigm and its effects on American law, it also ends up offering a brief but perceptive exploration of individual freedom as expounded by classical liberalism.

Environmentalism, Greve explains, views the world "as an infinitely complex, interdependent, and fragile place" where "small events may have large, unforeseen consequences." Preserving "spaceship Earth" therefore requires "an unconditional commitment to a one-dimensional value"—environmental protection—that trumps all other values. Environmentalism thus replaces traditional American interest-group politics, in which multiple values undergo constant balancing, with the unbounded pursuit of a single value. From this perspective, individual rights are an impediment to a more encompassing and transcendent public interest. If everything is connected to everything else, the ideas of property rights and individual autonomy are obsolete. In such a world, virtually any individual action may



Does environmental protection preclude property rights? Michael Greve writes that "complexity may be more manageable in private backyards than in a worldwide political commons."

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have catastrophic environmental consequences. "In a world of pervasive externalities," explains Greve, "legal relations and instruments that are modeled on private transactions seem hopelessly dysfunctional...and must therefore be discarded."

Greve demonstrates that for more than two decades U.S. court decisions on environmental matters acquiesced to this view of individual rights and property. The acquiescence eroded property rights and nullified the Fifth Amendment's requirement of compensation for individuals whose property is taken for public use. It also transformed the traditional concepts of "harm" and "standing" that determine when a person may sue. Finally, it turned the courts into virtual rubber stamps for an environmental agenda unconstrained by any countervailing values. Greve takes the reader on a quick journey through a series of court cases that established these trends.

But Greve's main project is not to recount what many already know and lament. Instead, he turns to the present and, with some optimism, sees a return in recent court decisions to American common law traditions. Common law relies on the idea that there are discernible distinctions between mine and thine and that property rights provide "a fence or boundary around a private sphere of autonomy." Greve argues that "central to the traditional idea of property is my right to exclude you (and all others), so long as—and because—what I do within my sphere of autonomy does not affect you." But the "right to exclude loses its meaning if everything I do within my boundaries affects everyone else," as environmentalism implies.

The courts, says Greve, have begun to recognize the slippery slope created by this environmental philosophy. The idea that there are *no* spheres of autonomy—that there is some generalized entitlement to a sound ecosystem—is "tantamount to legalizing aggression by all against all." Anyone's labor and anyone's property become subject to confiscation without compensation by others. The Supreme Court rejected this premise in the 1992 case *Lucas v. South Carolina Coastal Commission.* David Lucas contested the state's right to prohibit him from building on his coastal property. In essence, the Supreme Court ruled that a "taking" within the meaning of the Fifth Amendment occurs if a prohibition on the use of property goes further than the state's common law of nuisance would have permitted.

The resurrection of property rights, says Greve, has been accompanied (probably inevitably) by a return to stricter criteria for "harm," requiring plaintiffs to show a "palpable," "direct" injury, as the Supreme Court did in the 1992 Defenders of Wildlife case. Similarly, in the 1990 case *Lujan v. National Wildlife Federation,* environmental activists said they were adversely affected by Bureau of Land Management decisions on 1,250 tracts of land, but the "Supreme Court found these allegations insufficiently specific to support standing and essentially held environmental groups to the same pleading and evidentiary requirements that would apply to any other plaintiffs."

Common law is fundamentally a discovery process in which the courts sort out where one person's sphere of autonomy ends and another's begins. It was therefore not possible for the courts to resurrect property rights and impose a requirement of discernible harm without also rejecting a view of the courts as guardians of a single "public interest." Under the environmental paradigm, the courts had taken on the role of an executive review board, upholding vague, boundless legislative claims without constitutional scrutiny. By returning to common law principles, the courts reinvigorated a separation of powers in which they examine legislative acts within a constitutional context.

Greve does a good job of summarizing modern environmental philosophy and its impact on the courts. His argument that this philosophy is meeting its demise (at least in the courts) is provocative but less convincing, if only because the cases on which he builds his argument remain scanty. Furthermore, whatever may be unfolding in the courts, the old environmental paradigm continues to shape public sentiment and legislation. Efforts by the 104th Congress to codify requirements for takings compensation ran afoul of charges that such legislation would paralyze environmental protection. Common-sense proposals to put environmental legislation to some sort of cost-benefit test—a direct

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challenge to the pursuit of environmental values unfettered by tradeoffs with competing values—also could not get through Congress.

What is most interesting (but inadequately explored) in the book is the question of why a philosophy that emphasizes "the interconnectedness of all things"—essentially a restatement of the proposition that the world is complex—necessarily leads to an erosion of property rights. At times, Greve seems to imply that a focus on complexity could have no other outcome but collectivism. Yet he clearly does not believe this. Here and there, he admits that "complexity is an argument *for* private orderings, not against them." He adds that "decentralized and flexible private arrangements are far more easily tailored to a complex world than centralized, one-size-fits-all schemes: The more thoroughly such schemes attempt to mimic complexity, the harder they will crash on the law of unintended consequences." Greve then suggests that "an interdependent global economy may be *especially* dependent on clear (if somewhat artificial) boundaries; complexity may be more manageable in private backyards than in a worldwide political commons." He even acknowledges toward the end of the book that "the common law was, in fact, quite attuned to complexities—externalities, aggregate effects, multiple causation, unquantifiable risks, and indirect but nonetheless real effects....it did deal, as it had to, with complex social systems and ubiquitous and subtle externalities."

If the common law is also premised on complexity, then modern environmentalism's focus on complexity cannot, in itself, explain why that paradigm has moved us toward an annihilation of property rights, lax definitions of harm, and the view that the courts' role is to ratify some transcendent public interest. Greve's response to this point—not found in the book itself but outlined at an American Enterprise Institute seminar—is that the common law view, which sees simple rules that define spheres of autonomy as the solution to the problem of complexity, is difficult to articulate and even counterintuitive. Thus, many people, obsessed with the idea of complexity, will seek to accommodate it through central plans and the imposition of a single public value above all other values.

Greve may be right that the common law's answer to complexity is counterintuitive. But other factors helped bring us to the current regulatory state of affairs. Greve fails to note that many modern environmentalists adhere to Progressive Era elitism and liberal egalitarianism. The elitism is expressed by a willingness to impose one set of values, articulated by an elect few, on everyone else without regard to any competing values that individual citizens might hold. The egalitarianism can be seen in a distrust of wealth creation and a suspicion of consumption beyond "basic needs." Linked with the focus on interconnectedness and complexity, these attitudes produce the legal and political outcomes that Greve describes.

Environmentalism views the world "as an infinitely complex, interdependent, and fragile place" where "small events may have large, unforeseen consequences." Preserving "spaceship Earth" therefore requires "an unconditional commitment to a one-dimensional value"—environmental protection—that trumps all other values.

Recognizing these additional components of environmental ideology is important because they help explain why, notwithstanding the trends in the courts cited by Greve, discussions of environmental reform among legislators do not look very much like a reorientation toward classical liberal precepts. On the one hand, takings compensation clearly is rooted in American common law traditions. On the other hand, the focus on cost-benefit analysis and risk assessment, while no doubt preferable to undisciplined goal setting, retains a strong philosopher-king flavor. This approach to reform sees regulatory pathologies as mainly a "people problem" for which the remedy lies in recruiting the right experts. Classical liberal thought, by contrast, emphasizes decision making structures and how well (or poorly) they align personal self-interest with moral action and public well-being. This approach may have begun to surface in some Supreme Court decisions, but it has received much less attention in environmental reform debates generally. And egalitarian precepts appear to be alive and well, especially in discussions about environmental justice and sustainable development.

These remarks, though, should not detract from the excellent exploration of environmental philosophy and its impact on American law that Greve provides. His thesis would be just a bit more compelling if he had not tried to tie so much importance to the single idea of "the interconnectedness of all things." ◆

Lynn Scarlett (lynns@reason.org) is vice president for research of the Reason Foundation.

Trade Happens

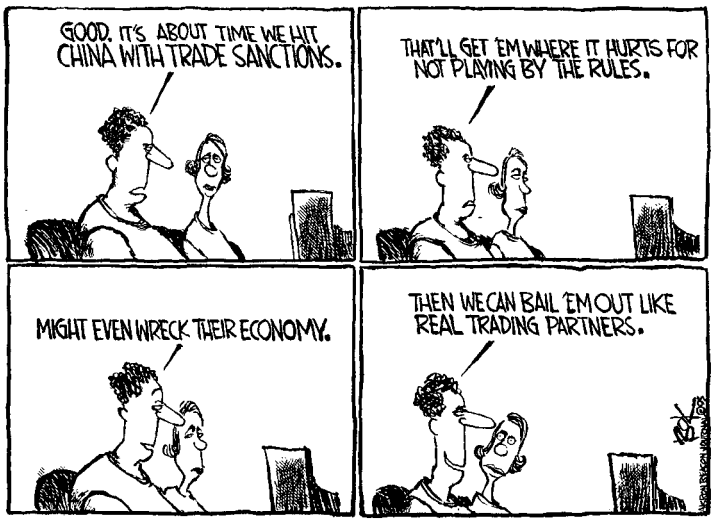
By Ramesh Ponnuru

Opening America's Market: U.S. Foreign Trade Policy Since 1776, by Alfred E. Eckes Jr., Chapel Hill: University of North Carolina Press, 424 pages, $34.95

Whenever Pat Buchanan is confronted with an economic argument, he invokes "history" to prove his point. During the presidential primary season, Buchanan responded to criticism from Sen. Phil Gramm (R-Tex.) by telling *Human Events*, "Phil has a Ph.D. in economics; that's his problem. He doesn't know history." He also argued that George Will's "disparagement of tariffs...is

rooted in an ignorance of his nation's past." The four faces on Mount Rushmore, he says, were all protectionists; and the United States developed into a mighty industrial nation during the golden age of protectionism.

Buchanan cites a number of writers for intellectual support. Of these, Alfred E. Eckes Jr.—a Reagan appointee to the International Trade Commission and a history professor at Ohio University—is the most academically respectable. With *Opening America's Market: U.S. Foreign Trade Policy Since 1776*, Eckes provides protectionists with a "usable past." They have not been slow to take advantage of it. In addition to Buchanan, the peripatetic provocateur Michael Lind is an admirer of Eckes. In *The New York Times Book Review*, Lind wrote that the book "unites scholarly rigor with a policy maker's sensitivity to the political factors influencing trade....One hopes that future historians will provide their readers with a perspective on the past as helpful as the one Mr. Eckes has given us."


GOOD. IT'S ABOUT TIME WE HIT CHINA WITH TRADE SANCTIONS.
THAT'LL GET 'EM WHERE IT HURTS FOR NOT PLAYING BY THE RULES.
MIGHT EVEN WRECK THEIR ECONOMY.
THEN WE CAN BAIL 'EM OUT LIKE REAL TRADING PARTNERS.
CHIP BOK

The book's tone and style are certainly scholarly; Eckes disavows any desire "to pursue an ideological agenda." His conclusions are almost always carefully hedged, or offered as mere conjectures.

Yet the tendentiousness of Eckes's presentation of the evidence nevertheless becomes clear as soon as he starts discussing the trade views of the Founding Fathers. Eckes quickly glosses over the fact that the United States was born in revolt against, among other things, Britain's corrupt, unfair, and restrictive mercantilist system. Thomas Jefferson's 1774 remonstrance to King George III, which Eckes gives short shrift, outlines the colonists' complaints.

Jefferson himself emerges from *Opening America's Market* as a late-in-life convert to "economic nationalism." As president, he did indeed impose an embargo, but only to stop the seizure of American vessels by warring European powers. (It didn't work, but it did cause a depression in the northeast and a minor secession

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crisis—a failure Eckes totally ignores.) In retirement, Jefferson's hostility to England led him to embrace a voluntary buy-American policy, not a protective tariff.

The arguments of free traders are ignored in the discussion of early America, as they generally are throughout the book. Eckes pays no attention to important documents like the *Free Trade Memorial* drafted by Albert Gallatin in 1831. Gallatin, secretary of the treasury under Jefferson and Madison and perhaps the foremost early American theorist of free trade, appears once in the book, delivering what sounds like a protectionist quote; Eckes omits its wartime context. Andrew Jackson, a critic of protectionism, gets the same treatment.

Even early American protectionists' views are distorted. Eckes doesn't distinguish between the views of Alexander Hamilton and those of Henry Clay. Hamilton didn't reject Adam Smith but thought there were exceptions to his theory. He hoped that high American wages and low taxes would encourage mass immigration, thus developing America's home market. We may safely assume that this is not quite what Eckes (or Buchanan, or Lind) has in mind. Hamilton's protectionism was narrowly focused. He preferred direct subsidies to tariffs and wanted exemptions from tariffs for businesses that imported raw materials. And he advocated (low) tariffs against the backdrop of a degree of economic freedom within the United States that no longer exists.

Clay, on the other hand, was more like today's Buchananites in his trade views, complete with a cultural pessimism and xenophobia Hamilton lacked. Clay asserted, as Buchanan and Eckes do today, that the burden of tariffs falls exclusively on foreigners, not American consumers. Protectionism, in other words, is free. It doesn't cause prices to rise, and Eckes even asserts that it doesn't necessarily cause imports to drop (in which case, it's hard to see what's being protected). To square his views with the historical record, Eckes must insist that protectionism has no correlation with any other factors. Throughout the book, he essentially adopts the "shit happens" theory of economics to explain historical developments.

The evolution of the tariff during the Civil War is an interesting story, but not one well told in *Opening America's Market.* Eckes trumpets an Abraham Lincoln statement that free trade "must result in the increase of both useless labour, and idleness; and so, in proportion, must produce want and ruin among our people." He tactfully declines to sketch the argument that precedes Lincoln's conclusion—that the tariff promoted useful labor by eliminating the "useless labour" of *transportation.*

Eckes dates America's economic golden age from the enactment of the Morrill Tariff of 1861. But the extreme protection he celebrates really started in 1862 and 1864, when tariffs were increased substantially to compensate businesses for wartime taxes. High tariffs were enacted, in other words, to enable big business to become tax collectors for the government. After the war ended, the high tariffs didn't.

The arguments of free traders are ignored in the discussion of early America. Eckes pays no attention to important documents like the *Free Trade Memorial* drafted by Albert Gallatin in 1831. Gallatin, perhaps the foremost early American theorist of free trade, appears once in the book. Andrew Jackson gets the same treatment.

Eckes argues that protection was popular, bringing Republicans a near-lock on the presidency for 70 years. Perhaps. But it is worth noting that low-tariff Democrats won the people's House in eight of 10 elections following 1874, and the presidential election of 1892, which turned on tariff issues. Justin Morrill, though a protectionist himself, thought it necessary to reduce the wartime rates in order to prevent the public from turning against protection entirely.

More important, Eckes argues that protectionism worked: "Over the forty [high-tariff] years from 1889 to 1929 GNP and per capita GNP, both adjusted for inflation, rose at a higher average rate than during a recent similar period [1952–1992] of trade liberalization." Of course, extraneous changes like the growth of the welfare state make the comparison pointless. But note the arbitrary cut-off dates: 1889 followed two decades of lousy wage growth under protection, and protection hardly ended in 1929 (although suspicious minds could devise reasons for adopting that year as an endpoint). The golden age to which both Eckes and Buchanan hark was characterized by stagnant wages and substantial labor unrest; the postwar period has been much better on both scores. Population growth, including immigration, accounted for much of the increase in GNP during the earlier period.

But all of this is just a warm-up. The core of the book—where Eckes is at his most forthrightly polemical—is the chapter devoted to an attempted rehabilitation of the Smoot-Hawley Tariff of 1930. Eckes correctly notes that "secondary and college students have learned to associate Smoot-Hawley with the 'evil consequences' of protectionism." He seeks to disprove four major claims about the law: 1) that it "increased U.S. tariff rates to the highest levels in history"; 2) that "these sky-high tariffs frightened the stock market"; 3) that "Smoot-Hawley exacerbated the Great Depression"; and 4) that "other nations retaliated with trade restrictions of their own." Lind is particularly impressed with this section of the book.

Textbook writers who make the first claim, Eckes asserts, "have not examined the evidence carefully." For instance, he notes that the ratio of duties collected to total imports was, at 13.7 percent, lower than the ratio established by the Fordney-McCumber Tariff of 1922 and most other previous tariffs. Smoot-Hawley increased the percentage of imports that were duty-free to 69.5 percent, much higher than at other times in the nation's history (the 1992 percentage was 37.1). So, he concludes, "Smoot-Hawley may actually have lowered average duties."

Leave aside for the moment the fact that 11 of the 13 tariffs he compares with Smoot-Hawley in his chart are among the highest in the nation's history, while the low tariffs of 1791, 1816, 1820, 1846, and

1857 are ignored. If Eckes's revisionist case sounds convincing, it's only because he presents misleading measures of the tariff burden. The amount of duties collected, and the proportion of dutiable products, *ought* to go down the more prohibitive a tariff becomes. Consider a hypothetical example: If a country slapped 1 million percent tariffs on everything but coffee, coffee is all it would import. Presto! One hundred percent of all imports would be duty-free.

Eckes, in a typical move, relegates the truth of the matter to footnotes (page 310, footnote 17: "If higher duties effectively blocked some imports, the average ad valorem equivalent might prove to be an unreliable measure"). In fact, Smoot-Hawley increased duties on 890 items, 50 of them previously duty-free, and at the very moment when the U.S. policy of combining export preference with foreign loans was creating a crisis in financial markets.

Eckes next turns to refuting Jude Wanniski's argument that the stock market crashed in anticipation of Smoot-Hawley's passage. Wanniski's interpretation is, to put it gently, eccentric, and it's easy enough for Eckes to knock down. But he can't resist the temptation to go Wanniski one better: "The stock market crashed after evidence of legislative gridlock"—i.e., because a Democrat-led coalition was delaying passage of the bill.

In tackling the third and fourth claims, Eckes's method is to create a series of elaborate sideshows to divert attention from the fact that he is conceding the main point at issue. So he admits that international trade collapsed after Smoot-Hawley, though why it did so is just the darnedest mystery. He spends page after page showing that complaints by other nations about Smoot-Hawley weren't formal "protests" as understood by the State Department. He downplays the amount of trade retaliation by not counting devaluations, currency controls, debt defaults, or expropriation of foreign industry as retaliation. Even tariffs aren't necessarily retaliation; tariffs on automobiles, for instance, are redefined as luxury taxes.

Once again, however, Eckes tries to retain the shards of academic respectability in footnotes, where he concedes that there was in fact a spiral of international trade restrictions. But these were "actions unrelated to Smoot-Hawley" (foreign governments doubtless were just having fun). Eckes's scholarship on this point is, in short, impressive chiefly as a feat of prestidigitation.

Eckes's coverage of the postwar period is only marginally more reliable. He argues that the United States has foolishly liberalized trade without demanding that other countries do so to the same degree. To prove his empirical claims, he would have to examine liberalization in other countries, particularly Japan, more carefully than he seems inclined to do. To defend his normative claims, he would have to refute the classical case for free trade, which makes no reference to the trade policies of other nations.

In any case, Eckes's account is marred by a number of background assumptions, which he never bothers to defend. First is the view that trade deficits are bad and surpluses good—and its corollary, that imports are bad and exports are good. Except, that is, when exports are bad too: It's wrong for trade negotiators to "sacrifice" protected industries for the sake of exporters. A nation that opens "its" market to foreigners is making "concessions." If you support free trade, you're a member of a cosmopolitan elite: "Outside the Beltway, ordinary Americans saw trade policy differently." Crackpots like Ravi Batra and James Goldsmith are serious thinkers. The interests of particular industries are equivalent to the national interest—unless they're exporters or importers.

I've only skimmed the surface of this book's weak points. But Eckes's cheapest shot shouldn't pass without comment. Eckes and Buchanan, as right-wing protectionists, are fond of Karl Marx's statement that "the free trade system hastens the revolution. It is in this revolutionary sense alone...that I vote in favor of free trade." What neither of them seems to understand is that Marx viewed capitalism itself as revolutionary, a necessary stage of historical development. He favored free trade for the same reason he favored the gold standard and the Union in the Civil War: because it would advance the productive power of capitalism. Are Eckes and Buchanan prepared to smear all goldbugs and abolitionists as incipient Marxists too?

In his epilogue, Eckes attributes the

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election of the Republican Congress in 1994 to public anger over the North American Free Trade Agreement, which is peculiar since GOP congressmen were more likely to vote for it than Democrats. Eckes's "ordinary citizens" turn out to be more gullible than ordinary. Eckes's book should be right up their alley.

Ramesh Ponnuru (nrwash@ix.netcom.com) is National Review*'s national reporter in Washington, D.C.*

Bluenose Blues

By Martin Morse Wooster

The Pleasure Police: How Bluenose Busybodies and Lily-Livered Alarmists Are Taking the Fun Out of Life, by David Shaw, New York: Doubleday, 286 pages, $23.00

Most demographers will agree that life is growing less risky every year. But if you pick up a magazine or newspaper or turn on the nightly news, chances are you'll see at least one report warning of some previously unknown terror. Three drinks will make you an alcoholic. Most men are date rapists. Eating causes cancer.

Read or watch enough of these scary reports, and you'll want to spend the rest of your life in bed, living on bean sprouts, distilled water, and the occasional carrot. Today, you're a bold and daring iconoclast if you order a steak, a smoke, and a sherry when you go out for a night on the town.

Why do we live in such a repressive age? Why has the three-martini lunch become as retrograde as the smoking jacket or the hoop skirt? Those questions are addressed by David Shaw, the *Los Angeles Times*'s media critic since 1974. In his first book, Shaw examines why the Stairmaster has become more fashionable than the seven-course dinner.

Much of what Shaw discusses will be familiar to readers of REASON, such as the foolishness of the war on drugs, the truth about cancer risks, or the real dangers of secondhand smoke. Regular readers will already know much of what Shaw has to say about public policy.

But *The Pleasure Police* isn't at its heart a book on public policy; it's the autobiography of David Shaw interlaced with analysis. Shaw never fails to present himself as a good liberal who just wants to be able to smoke a nice cigar or enjoy an issue of *Playboy* without being denounced by some prude. Despite his departures from '90s P.C. orthodoxy, Shaw is a '90s guy in his desire to reveal personal secrets many readers would rather not know: He tells us his 27 favorite foods, including his five favorite kinds of chicken. As a callow lad at a repressive Christian college, Shaw tells us, he referred to women's breasts as "oaklands." (To this longtime resident of the East Coast, his desire to use his book as a confessional seems very Californian.)

The Pleasure Police is the autobiography of David Shaw interlaced with analysis. Shaw never fails to present himself as a good liberal who just wants to be able to smoke a nice cigar or enjoy an issue of _Playboy_ without being denounced. He is a '90s guy in his desire to reveal personal secrets many readers would rather not know.

Still, whenever Shaw stops talking about himself, he has interesting things to say. He's at his best in *The Pleasure Police* when he criticizes the press. He argues that journalists primarily worry about people like themselves. As newsrooms restrict smoking, for example, journalists are prompted to write misleading stories about the alleged dangers of secondhand smoke. As journalists age and worry about preserving the remnants of their lost youth, they are more prone to write exaggerated stories about purported cancer-causing compounds. Shaw theorizes that many journalists have a hard time writing about sex because most editors seem "both suspicious and envious of those who eagerly indulge in pleasures of a sensual nature." As a result, Shaw says that "every time the media cover a story involving sex—be it about AIDS, child molestation, the William Kennedy Smith rape trial, or the sex lives of Bill Clinton or Gary Hart—they fuck it up."

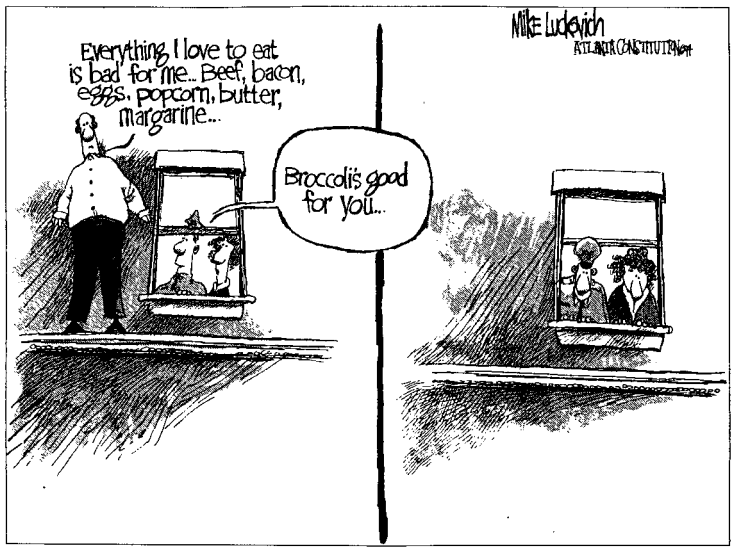
Most of the time, Shaw shows, the press fails because journalists censor crucial details. In 1976, for example, when Ford administration Agriculture Secretary Earl Butz resigned after making loathsome comments about African Americans, only the *Toledo Blade* and the Madison, Wisconsin, *Capital Times* told their readers what Butz said. When the Federal Communications Commission in 1978 barred radio stations from broadcasting seven obscene words, only the *San Francisco Chronicle* reported what the words were. A recent *New York Times* story on why New York City is "the most foul-mouthed city in the nation" did not quote any foul mouths. And when the *Los Angeles Times* told the story of Frasier, a beast at Lion Country Safari who sired 30 cubs in six months despite being as old (in lion years) as a 75-year-old man, the newspaper's photography department airbrushed away Frasier's lionhood.

Shaw also amusingly skewers journalistic health scolds such as Jane Brody, the *New York Times* health columnist whose dour advice has frightened generations of Manhattanites. According to Brody, every season of the year is cause for alarm. Instead of plum pudding and goose for Christmas, she thinks it more appropriate to serve beans and whole-grain crackers. "If you obeyed all the strictures in Brody's weekly column," Shaw writes, "you'd never leave the house. Hell, you'd never get out of bed."

Shaw is not always as interesting as he could be. Many of his comments are banal. (A prudent editor would have cut his lengthy remarks on baseball or why California is a better place to live than New York.) And his liberalism leads him to misinterpret the nature of American puritanism.

Shaw would like to divide the United States into two classes: freedom-loving hedonists and dour Puritans. But, for Shaw, America is actually home to two types of Puritans: conservatives who don't like unmarried people having sex or consuming pornography, and liberals who don't like smokers, drinkers, or meat eaters.

According to Shaw, the two groups of Puritans are allied: "Now, however, we have the alarmists of the left joining forces with the Puritans of the right for the suppression of fun in American." Shaw has little evidence for his claim, though. Occasionally liberal and conservative Puritans form alliances, most notably in the 1980s, when radical feminists Andrea Dworkin and Catharine MacKinnon united with some Christian conservatives in a failed grand coalition against pornography. Most of the time, however, the two groups of Puritans don't have much to do with each other. The Christian Coalition does not champion the efforts of Food and Drug Administration Commissioner David Kessler, and the Center for Science in the Public Interest does not worry about who buys *Playboy*.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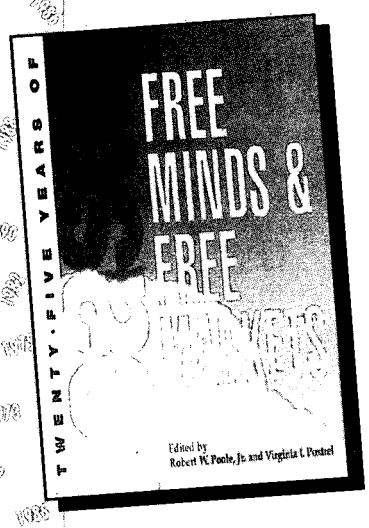
Mike Luckovich
ATLANTA CONSTITUTION

MIKE LUCKOVICH

This confusion about Puritanism across political divisions leads Shaw into some errors. For example, Shaw discusses how the idea of "heterosexual AIDS" was largely promulgated by gay activists who "learned the hard way that the only way to get government funding, scientific research, and media attention was to make AIDS seem a serious threat to heterosexuals as well." But he then argues that these AIDS activists were supported by "a most unlikely alliance," including "the nation's homophobes, Christian Fundamentalists, right-wing conservatives, and puritans of various stripes." Shaw offers no evidence that right-wingers support homosexual efforts to convince the public that AIDS would kill thousands of heterosexuals. Indeed, it's more plausible that the homophobic right would oppose the notion of heterosexual AIDS, since they be-



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lieve AIDS to be a "gay disease."

Shaw displays similar confusion about the debate over funding the National Endowment for the Arts, contending that the agency's budget was slashed because prim censors wanted to block artists from creating sexually explicit work. Shaw doesn't address the serious challenges to the NEA, such as, why should government use tax dollars to support activities many Americans find offensive? Shaw also ignores the large class of people (like me) who enjoy *Playboy* and moderately smutty films but believe that the NEA is just another government welfare program, as ethically indefensible as subsidizing single mothers or giant corporations.

What can be done about American Puritans? David Shaw gives no answers; he is content to diagnose the problem, not proffer a solution. Part of the remedy is to reduce the budgets of federal agencies, such as the FDA, EPA, and OSHA, which feel compelled to frighten the public to convince Congress that they deserve a larger budget to fight off terrors which are much less scary than bureaucrats would like to admit.

The best way to counter bad information, though, is with better information. Despite its flaws, *The Pleasure Police* does a good job making the case that people who enjoy cigar smoking, drinking, making love, and fine foods are likely to lead happier lives than are people who believe government mandarins and their allies in the press who constantly portray life as dangerous, vicious, and terrifying.

Contributing Editor Martin Morse Wooster is an associate editor of The American Enterprise. *He enjoys beer and the occasional whiskey, and doesn't mind other people's smoke.*

Power Puff

By John J. Pitney Jr.

Powertown: A Novel, by Michael Lind, New York: HarperCollins, 264 pages, $23.00

Movie buffs lovingly remember the name of Edward D. Wood Jr., director of such films as *Glen or Glenda?* and *Bride of the Monster.* Wood considered himself something of a genius, but he was so profoundly incompetent that his movies are actually fun to watch. In making his "masterpiece," *Plan Nine from Outer Space,* Wood used toy-store models to represent flying saucers and randomly alternated shots of daylight and darkness within the same sequence. When star Bela Lugosi died two days into filming, Wood replaced him in the remaining scenes with his wife's chiropractor. The substitute looked nothing like Lugosi, but that didn't stop Ed Wood: He merely had the man hold a cape over his face.

Michael Lind is becoming the Ed Wood of American political writing. Once a low-level munchkin in conservative intellectual circles, Lind has recently won himself a good deal of ink by denouncing his former patrons as divisive and reactionary. Earlier this year, he published *Up from Conservatism,* combining a memoir of his conversion with a wide-ranging attack on his forsaken ideology. Lind may have intended this book to be his own version of St. Augustine's *Confessions,* but it ended up as his *Plan Nine from Outer Space.*

Readers familiar with conservative and free market thought can derive perverse amusement from the book's countless omissions and mistakes. For instance, Lind says the "only libertarian organization of any importance in American politics is the Cato Institute." If you are holding this magazine in your hands, then you know about this other outfit located on South Sepulveda Boulevard in Los Angeles....

Like Ed Wood, Michael Lind works fast. Just a few months after *Up from Conservatism,* he has published *Powertown,* whose jacket notes identify it as his "fiction debut." Discerning consumers of the previous book would disagree, but that's not important here. *Powertown* is a different kind of work, and it's monumentally awful in a different way.

"Powertown" is Washington, D.C., which provides the backdrop for the novel's three loose storylines. The first involves a group of self-absorbed professionals who work in the political establishment and constantly obsess about their careers and sex lives. The second concerns black "gangbangers" who take drugs, shoot one another, and use the f-word a lot. The third centers on an illegal-immigrant cleaning lady, and in these chapters, the other characters mainly consist of people who are mean to her.

There's nothing wrong with a multi-layered plot, so long as the author makes sure that readers can keep the characters straight. Within the first 30 pages of *Powertown,* Lind utterly bungles this elementary requirement of novel writing. We meet Stef Schonfeld, a woman who works for Rep. Jim Ritter on the Appropriations Committee. Stef is the inaugural-ball cover date for Avery Brackenridge, a gay black guest-booker at National Public Radio, whose lover is Ross Drummond, a white Republican political consultant. Ross's cover date is the wealthy Agalia Kazakis, who, as we later learn, heads a charitable foundation. Ross introduces Stef to the handsome Bruce Brandt, who works for Mrs. Gutierrez, the drug czar.

Don't complain yet: We're only up to page six. Now Lind introduces us to Velma and Curtis Hawkins, a working-class black couple who have two daughters, Lorena and Marilyn. With Velma's father, Dad Johnson, staying at their home, Curtis drives to another neighborhood to pick up Velma's sister-in-law Sharonda, together with her four children, Arnetta, Monique, Jamal, and Evander, as well as Sharonda's mother, Stella Morris. The next day, Evander learns from his friend Twon that the gangbanger Lookout Williams has been making threats against him, so he asks for protection from Frizzell, the chief gangbanger.

Meanwhile, evil landlady Mrs. Reyes evicts Graciela Herrera and her children, Rosa and Marcello. The three unfortunates move in with Graciela's cousin Yolanda, whose husband Isidro is displeased. Graciela goes to Señor Martinez, a purveyor of fake green cards, for help in finding a new place. Martinez sends Darryl

Allegedly Michael Lind's first work of fiction, *Powertown* is a hastily thrown together novel that combines execrable prose with characters the reader can't keep straight and dialogue no recognizable human being would use.

Shelton, who moves her into a seedy apartment. When Rosa gets sick, Darryl arranges for Graciela to take her to Dr. Sorzano. But apparently, Darryl is seeking sexual favors in return for his assistance.

That's the state of play as of page 29, and it just keeps getting worse. I counted 92 different character names, and I probably missed a few. *Powertown* is not a novel, it's a census.

The names are as confusing as they are plentiful, so a reader literally needs a computer database. Sharonda, remember, is Velma Hawkins's sister-in-law, whereas Shirrelle is the aunt of black teen Latisha "Teesha" Madison, who becomes Evander's girlfriend. And do not confuse Latisha Madison with Letitia Monroe, who is a wealthy white woman. The same goes for Jack Vincent (legislative assistant to Rep. Lou Mayers) and Jack Dougherty (legislative assistant to Sen. Ted Chappell).

While creating this population explosion, Lind himself apparently got confused. He tells us that Dad Johnson had a son named Luke, who fathered Evander and died of a drug overdose. A few pages later, though, he writes that Evander's father was named Luke Turner and that he died in a car crash. On page 130, there's a character named "Willie." On page 131, we read about "Willy." Has young William suddenly decided to change the spelling of his name, or is Lind treating us to a guest appearance from the famous orca whale?

SIGRID ESTRADA

Lind's literary atrocities go far beyond the name game. He describes Evander's visit to a dance club: "The hammering beat coaxes his heart into sync with it; part of him wants to abandon himself to the amplified throbbing, to become one more stalk of grass in this field riffled by the thundering gale from the stage." He says of the hapless immigrant: "Graciela imagines what it must be like to be a soul floating free of the body, to be dazzled by a milky effulgence that burns through the very fabric of the universe like a flame eating through the walls and ceiling of a burning house."

And then: "The flame will speedily travel around the earth, back along the line of gasoline to the can, or the sun itself. It will explode this source and spread to every place that gasoline, our sunlight, touches. Explode the sunlight here, gentlemen, you explode the universe." Oh, sorry, that last passage really is from *Plan Nine from Outer Space.* You can see how easy it is mix up Lind's lines with Ed Wood's.

There's one big difference, however: Wood's major characters were all white. In *Powertown*, Lind tries to get us in touch with the African-American experience by including a large number of black characters. Evidently, he had trouble figuring out what to call them all. He offers two different Jocelyns, one being Latisha's mother and the other being Lookout's girlfriend. After running out of handles such as Rasheed and Jamal, he turned to the names of real public figures. A gang member is called Tito, after one of Michael Jackson's lesser brothers. An NAACP lawyer is named John Conyers, after the long-serving congressman from Detroit.

His dialogue is a middle-class white guy's take on what ghetto dwellers sound like. Here's a reaction to a murder: "'Oh, lawdy,' says Velma, 'Somebody else got shot. Lawd a' mercy.'" And here's a discussion of young love: 'While we was in the kitchen,' Lookout tells him, 'she say, 'Who that boy?' She say, 'He look mighty fine.' She wants you, cuz. Word, cuz. Go for it.'" To his credit, Lind is an equal-opportunity offender. None of his characters—black or white, straight or gay—sound like recognizable human beings.

Lind's Washington bears no resemblance to the real city on the Potomac. The Washingtonians who do the most harm are not the sex-obsessed cynics of *Powertown*, but nerdy idealists who spend their nights drafting new regulations for the Environmental Protection Agency and Occupational Safety and Health Administration. Perhaps *Powertown* is not really about people in Washington at all, but about alien creatures on a strange new world. In that case, it might supply the basis for a nifty science fiction movie.

Too bad Ed Wood isn't around to direct it. ◆R

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Must Scream TV

The hidden costs of free television time for politicians

By Thomas W. Hazlett

Well, wasn't that special. Election '96, of course. You must feel zesty and minty fresh. Because this campaign cycle was new and improved: All five major TV networks gave free time to Bill Clinton and Bob Dole.

This was the genius innovation put forth by America's best and brightest. The noble notion was to give each candidate for High Public Office a straight shot—no gimmicks—at the concerned citizens of America.

The results are now in, and they are just shocking. It turns out that, when politicians come on the screen, Americans exhibit the hand-speed of Sugar Ray Leonard grabbing for their remotes. Even those sluggish souls unable to escape the two-minute colloquies remain public policy-malnourished.

The media critic for *The New York Times*, Walter Goodman, offers this definitive post-election analysis: "This year's efforts at obtaining free television time for Bill Clinton and Mr. Dole, albeit welcome in principle, proved limp in practice."

So much for the policy's failure to promote truth and civility in our public discourse. Let us turn to why the scheme ever made it into the world in the first place.

What kind of a "welcome" principle inanely tosses out reforms without a wisp of analysis of the possibility that something that sounds good will actually prove "limp in practice"? Indeed, the promoters of the scheme themselves knew that people would instinctively tune out the boring mini-speeches; that is why they flacked loudly for "roadblocks"—times at which all broadcast nets would air Clinton or Dole simultaneously.

I submit that what is wrong with our politics cannot be fixed by giving politicians more pontificational leeway. What must be brought to bear is sharper scrutiny of just those folks who bother us with such reforms as free time for political candidates.

This very free-time proposal is life imitating sleazy politics. The plan in question sprouted wings only when the newest American patriot, Rupert Murdoch, signed on, volunteering his Fox TV (the fourth network). The pledge was denounced by Murdoch's network competitors as the most cynical sort of ploy—but they were soon forced to match him.

The reason? Well, in a phrase, *free political time*—the right to transmit digital television signals for *free*, for a very long *time*, all due to *political* clout. This is the notorious "giveaway" of new licenses for High Definition Television, an in-kind contribution of $10 billion to $40 billion to TV investors, according to Congressional Budget Office projections. Don't bother tuning in for discussion of this massive subsidy on broadcast TV, though; an inability to speak on this particular topic is just one of the debilitating aspects of corporate welfare dependency.

Happily, there are things that we can do to improve our political discourse; sadly, they all take a minimum of three-to-five minutes of reflection. One effort would be for the major news organizations to simply hire better reporters—including experts in science, economics, medicine, etc.—to check the pols' rants. Goodman's *New York Times* is apparently unable to find a single reporter in America who can count to four. This deficiency was spotted in their election-eve coverage of the news that the federal budget deficit had fallen to just $107 billion—a drop of 63 percent—from $290 billion in 1992. In a special analysis piece, they attributed this four-year record to the Clinton administration when, in fact, the $107 billion deficit occurred in Clinton's *third* budget. Fiscal year 1993, which began on October 1, 1992, was George Bush's last budget; the *Times* erroneously counted it as Clinton's first. Of the $183 billion drop in the deficit over four years, over 75 percent was achieved either in Bush's final budget or the GOP Congress's first budget. Working for two years with a Democratic Congress, Clinton's budget deficit fell only $45 billion. A small point, perhaps—but one that Bill Clinton pounded home during his "free TV time"—without challenge from (inexplicably) Bob Dole or (lazily) the national press.

Alas, there is a policy solution to our travail: more news competition. The very fellas who champion a cause devoid of results are reliably part of the resistance to market solutions that actually work. Such marvels as C-SPAN were actively suppressed by the bluebloods of communications policy—most notably and directly by President Kennedy's highly-feted FCC chairman, Newton Minow, the regulator who began an anti-cable campaign lasting most of 20 years.

True to form, today's rush to enact free TV time for candidates is only the icing on a poisonously anti-competitive cake. If instead of the political fix now in for HDTV licenses, we were to open up the TV band for all the wireless traffic it could accommodate, we would unleash an electronic explosion: scores of new (digital) TV stations and a plethora of innovations, including high-speed Internet access. The volcanic combustion of competitive entry would hurl new media conduits instantly within the consumer's reach. Speech would be cheaper, debate more robust, and citizens wouldn't even have to be herded up with TV "roadblocks" to become informed.

When the free-time folks figure this out, they will be far more useful participants in the democratic process. And we won't have to rely on a vacuous two-minute monologue by a presidential candidate to figure out why.

Contributing Editor Thomas W. Hazlett (hazlett@primal.ucdavis.edu) teaches economics and finance at the University of California at Davis.

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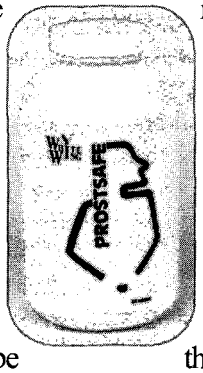

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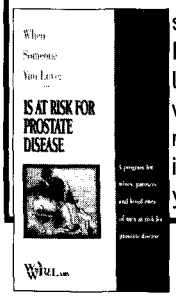

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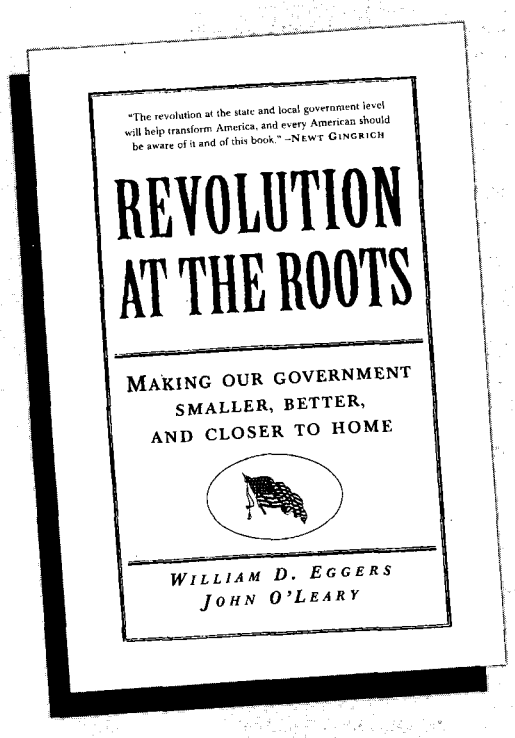
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